

## Extra Ordinary Part - V / 2008

Extra No.	Date	Department
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Extra No.2	19-02-2008	Legislative & Parliamentary Affairs Department
Extra No.3	19-02-2008	Legislative & Parliamentary Affairs Department
Extra No.4	28-02-2008	Gujarat Legislature Secretariat
Extra No.5	28-02-2008	Gujarat Legislature Secretariat
Extra No.6	05-03-2008	Legislative & Parliamentary Affairs Department
Extra No.7	14-03-2008	Legislative & Parliamentary Affairs Department
Extra No.8	14-03-2008	Legislative & Parliamentary Affairs Department
Extra No.9	14-03-2008	Legislative & Parliamentary Affairs Department
Extra No.10	14-03-2008	Legislative & Parliamentary Affairs Department
Extra No.11	14-03-2008	Legislative & Parliamentary Affairs Department
Extra No.12	14-03-2008	Legislative & Parliamentary Affairs Department
Extra No.13	15-03-2008	Legislative & Parliamentary Affairs Department
Extra No.14	15-03-2008	Legislative & Parliamentary Affairs Department
Extra No.15	15-03-2008	Legislative & Parliamentary Affairs Department
Extra No.16	15-03-2008	Legislative & Parliamentary Affairs Department
Extra No.17	15-03-2008	Legislative & Parliamentary Affairs Department
Extra No.18	19-03-2008	Legislative & Parliamentary Affairs Department
Extra No.19	19-03-2008	Gujarat Legislature Secretariat
Extra No.20	25-03-2008	Gujarat Legislature Secretariat
Extra No.21	29-03-2008	Legislative & Parliamentary Affairs Department
Extra No.22	11-09-2008	Legislative & Parliamentary Affairs Department
Extra No.23	11-09-2008	Legislative & Parliamentary Affairs Department
Extra No.24	11-09-2008	Legislative & Parliamentary Affairs Department
Extra No.25	13-09-2008	Legislative & Parliamentary Affairs Department
Extra No.26	16-09-2008	Legislative & Parliamentary Affairs Department
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Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

## PART - V

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules:-

### THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2008.

**GUJARAT BILL NO. 1 OF 2008.**

#### A BILL

*further to amend the Gujarat Co-operative Societies Act, 1961.*

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 2008. Short title and commencement.
- (2) It shall be deemed to have come into force on the 8<sup>th</sup> October, 2007.

Amendment of  
section 2 of Guj.  
X of 1962.

2. In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act"), in section 2,-

Guj. X of 1962.

- (1) after clause (7), the following clause shall be inserted, namely :-

"(7A) "co-operative credit structure" means (i) the Primary Agricultural Credit Co-operative Societies; (ii) the Central Co-operative Banks; and (iii) the State Co-operative Bank;";

- (2) after clause (13), the following clause shall be inserted, namely:-

"(13A) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;".

61 of 1981.

Amendment of  
section 6 of  
Guj. X of 1962.

3. In the principal Act, in section 6, after sub-section (1), the following sub-section shall be inserted, namely :-

"(1A) In case of the society in co-operative credit structure registered under sub-section (1), the society shall have power to decide their respective area of operation without any restrictions."

Amendment of  
section 13 of Guj.  
X of 1962.

4. In the principal Act, in section 13, to sub-section (2), after the existing proviso, the following proviso shall be added, namely :-

"Provided further that the application for registration of amendment of bye-laws of a society shall be disposed of within sixty days from the date of its receipt."

Amendment of  
section 22 of Guj.

5. In the principal Act, in section 22,-

- (1) in sub-section (1), after clause (f), the following clause shall be inserted, namely:-

“(g) a group of the individuals eligible under clause (a), whether incorporated or not and whether established or not by or under any law.”;

(2) for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) Every person seeking admission as a member of a society, if duly qualified for membership of such society under the provisions of this Act, the rules and the bye-laws of the society, may make an application to the society for membership. The society shall take decision on the application and shall communicate the decision within a period of three months from the date of the receipt of the application.”;

(3) after sub-section (3), the following sub-sections shall be added, namely:-

“(4) All the depositors having deposits of rupees ten thousand or above for a minimum period of one year and the borrowers shall be compulsorily made members in the Primary Agricultural Credit Co-operative Societies:

Provided that the depositors having deposits less than rupees ten thousand shall be made nominal members.

(5) The State Government may, by notification in the *Official Gazette*, alter the limit of rupees ten thousand specified by sub-section (4) and also specify such amount of deposit as it deems necessary for a class of society and different amount may be specified for different classes of societies. In the case of borrowing members, the society shall prescribe in its bye-laws, linking shares subject to minimum of two and half per cent. of the loan taken by the borrowers.”.



Amendment of  
section 27 of Guj. X  
of 1962.

6. In the principal Act, in section 27, the existing section shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:-

“(2) The person who has committed a default and remains as such defaulter in making repayment of loan or interest thereon for a period of one year from the due date of repayment of such loan or interest or installment shall not be entitled to exercise voting rights of a member of a society till all such repayments are made.”.

Insertion of new  
section 44A in  
Guj. X of 1962.

7. In the principal Act, after section 44, the following section shall be inserted, namely:-

Power of committee  
of co-operative  
credit structure.

“44A. Notwithstanding anything contained in this Act or the rules or the bye-laws made thereunder, the committee of every society in a co-operative credit structure shall have freedom to decide its financial and internal administrative matters, especially:-

(i) interest rates on deposits and loans, subject to the directives issued by the Reserve Bank of India;

(ii) borrowing, investment, depositing its surplus funds, loaning policies (including individual loans) and other business policies;

(iii) personnel policies including issues relating to recruitment, promotion, staffing, training, posting and compensation to staff as per business requirement of the society;

(iv) internal checks and control systems, appointment of auditors, their compensation and other internal administrative issues; and

(v) borrowing from any financial institution regulated by the Reserve Bank of India, keeping in mind the interest of the society and its members.”.

Amendment of  
section 45 of Guj. X  
of 1962.

8. In the principal Act, in section 45, after sub-section (2), the following sub-section shall be added, namely:-

“(3) Notwithstanding anything contained in this Act, no person or group of persons other than a member or members shall be eligible to borrow from or make deposit in a Primary Agricultural Credit Co-operative Society.”.

9. In the principal Act, in section 51, to sub-section (1), the following proviso shall be added, namely :-

Amendment of  
section 51 of Guj. X  
of 1962.

“Provided that in the case of societies in the co-operative credit structure, the State Government shall not subscribe for more than twenty-five per cent. of the total share capital and the State Government or the society shall have the option to reduce the share capital contributed by the State Government.”.

10. In the principal Act, after section 67, the following section shall be inserted, namely:-

Insertion of new  
section 67A in  
Guj. X of 1962.

Bad Debt  
Reserve Fund.

“67A. (1) Every society which earns profit from its transactions, shall maintain a Bad Debt Reserve Fund.

(2) Every year, the society shall carry at least fifteen per cent. of the net profit to the Bad Debt Reserve Fund.

(3) All debts which are found to be irrecoverable and certified as such by a certified auditor and expenses incurred in recovering the same shall first be written off against the Bad Debt Reserve Fund.

- (4) Notwithstanding anything contained in section 67-

(a) the balance of bad debts, if any, remaining after first writing them off under sub-section (3); and

(b) all losses incurred by a society including those suffered on account of settlement of disputes under section 98 which are certified as such by a certified auditor,

may be written off against the reserve fund maintained under section 67 to the extent of not more than thirty per cent. of the balance in that fund:

Provided that no bad debt or loss shall be written off against the bad debt fund or, as the case may be, the reserve fund, unless the society in the general meeting passes a resolution approving the same by a majority of total membership of the society and by a majority of not less than two-third of the members of the society present and voting.

(5) Notwithstanding anything contained in the Act, no society in co-operative credit structure shall be directed by the State Government or otherwise required to contribute to any fund other than those for improving the net worth and owned fund of the society.”.

Substitution of  
section 68 of Guj.  
X of 1962.

11. In the principal Act, for section 68, the following section shall be substituted, namely :-

Restriction on  
dividend.

“68. No society shall pay dividend to its members at a rate exceeding the rate as may be prescribed by the State Government, by notification in the *Official Gazette*, from time to time for all societies generally or a class of societies in particular :

Provided however that the dividend payable in case of co-operative credit structure shall be subject to the guidelines of the Reserve Bank of India or, as the case may be, the National Bank.”.

Amendment of  
section 69 of Guj. X  
of 1962.

12. In the principal Act, in section 69, after sub-section (3), the following sub-section shall be added, namely :-

“(4) The provisions of sub-sections (1) to (3) shall not apply to the societies in the co-operative credit structure.”.

## 13. In the principal Act, -

Amendment of  
section 70 of Guj. X  
of 1962.

- (i) in section 70, after the words and figures "section 67 and", the words, figures and letter "for the bad debt reserve fund as provided in section 67A and" shall be inserted;
- (ii) to section 70, the following proviso shall be added, namely :-

"Provided that the provisions of this section shall not apply to the societies in the co-operative credit structure."

## 14. In the principal Act, in section 71, in sub-section (1), for the clauses (f) and (g), the following clauses shall be substituted, namely:-

Amendment of  
section 71 of Guj. X  
of 1962.

2 of 1934.

"(f) in a Scheduled co-operative bank as defined in clause (2) of section 2 of the Reserve Bank of India Act, 1934 and having its registered office within the State or in any nationalised bank,

(ff) in any land or building-

- (i) where the money in a building fund established by a society is sufficient for the purpose, or
- (ii) where the money in such a fund is insufficient for the purpose or where a society has not established such fund, with the previous sanction of the Registrar :

Provided that the Registrar shall endeavor to decide the question as to previous sanction be given or not, within ninety days of the receipt of an application for such sanction,

(g) in any corporation owned or controlled by the Government of Gujarat and other Scheduled Banks not covered under clause (f), with the prior approval of the State Government subject to such terms and conditions as may be prescribed in this behalf :

Provided that in the case of the State Co-operative Bank, the Central Co-operative Banks and the Primary Agricultural Credit Co-operative Societies, the Reserve Bank of India may issue further guidelines restricting or enlarging the scope of investment in any institutions approved for the purpose under this section.”.

Insertion of new  
section 73A in  
Guj. X of 1962.

15. In the principal Act, after section 73, the following section shall be inserted, namely :-

Freedom for  
affiliation or  
disaffiliation with  
a federal society  
of choice.

“73A. Notwithstanding anything contained in this Act or the rules for the time being in force, the societies in the co-operative credit structure shall be at liberty to affiliate or disaffiliate with any federal society of its choice provided a resolution approving such affiliation or disaffiliation with a federal society is passed in the annual general meeting held for the purpose with three - fourth majority of total members, and subject to the rules as may be prescribed and the guidelines issued by the Reserve Bank of India.”.

Amendment of  
section 74 of Guj. X  
of 1962.

16. In the principal Act, section 74 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :-

“(2) There shall be two professionals on the committee of the Central Co-operative Bank and the State Co-operative Bank having qualification prescribed by the Reserve Bank of India or, as the case may be, the National Bank. If such members are not elected on committee of the Central Co-operative Bank and the State Co-operative Bank, the Registrar shall direct the concerned bank to co-opt such professional on the committee within the time limit specified in such direction of the Registrar. If the bank fails to comply with the aforesaid directions, the Registrar shall appoint such professional member on the committee of the



concerned bank. The professional member shall have all the rights of members inclusive of voting right and the term of such member shall be co-extensive with the term of other elected members.”.

17. In the principal Act, in section 74D,-

Amendment of  
section 74D of Guj.  
X of 1962.

(1) in sub-section (1), -

- (i) for the words “or having been elected not functioning within a period of six months after”, the word “before” shall be substituted;
- (ii) before the words “the Registrar may”, the words “or having been elected not functioning” shall be inserted;

(2) after sub-section (1), the following sub-section shall be inserted, namely :-

“(1A) The Registrar shall hold election of such society within a period of two months and the Committee shall be constituted before the expiration of that period.”.

18. In the principal Act, in section 76, after the existing proviso, the following proviso shall be added, namely :-

Amendment of  
section 76 of Guj. X  
of 1962.

“Provided further that the qualifications for appointment of the Chief Executive Officer and the Directors of the Central Co-operative Banks and the State Co-operative Bank shall be such, as may be determined by the Reserve Bank of India from time to time :

Provided also that the Registrar of the Co-operative Societies or the Board of the Central Co-operative Banks or the State Co-operative Bank shall remove, at the request of Reserve Bank, such Directors and Chief Executive Officers who do not fulfill the criteria stipulated by Reserve Bank. However, the

existing elected Directors holding their post as such Directors on the date of the commencement of the Gujarat Co-operative Societies (Amendment) Act, 2008, shall continue to hold their offices till the expiry of their current remaining term.”.

Guj. of 2008.

Amendment of  
section 80 of Guj. X  
of 1962.

19. In the principal Act, in section 80, after sub-section (2), the following sub-section shall be added, namely:-

“(3) Notwithstanding anything contained in this Act or the rules or in the bye-laws, there shall be only one nominee of the State Government in the committee of the State Co-operative Bank or the Central Co-operative Banks where the State Government has subscribed to the share capital of such co-operative banks and no such nomination shall be made where the State Government has not subscribed to the share capital of such co-operative banks and no such nomination shall be made on the committee of a Primary Agricultural Credit Co-operative Society irrespective of whether the State Government has subscribed to the share capital of a society or not.”.

Amendment of  
section 80A of Guj.  
X of 1962.

20. In the principal Act, in section 80A, after sub-section (3), the following sub-section shall be added, namely :-

“(4) The provisions contained in sub-sections (1) to (3) shall not apply to the societies in the co-operative credit structure.”.

Amendment of  
section 81 of Guj. X  
of 1962.

21. In the principal Act, in section 81,-

(1) in sub-section (1),-

- (a) in clause (a), the word “or” appearing at the end shall be deleted;
- (b) clause (b) shall be deleted;
- (c) in sub-clause (i), after the words “of the society”, the words “not being the members of the committee removed under this sub-section” shall be inserted;

- (d) (i) for sub-clause (ii), the following sub-clause shall be substituted, namely:-

“(ii) one or more administrators from amongst the members of the society, not being the members of the committee removed under this sub-section, or from amongst the officers of the co-operative department of the State Government.”;

- (ii) in paragraph below sub-clause (ii), for the words “two years” and “four years”, the words “one year” and “two years” shall be substituted respectively;

- (2) to sub-section (4), the following proviso shall be added, namely:-

“Provided that the committee or the administrator shall make arrangements for constitution of a new committee of a society in the co-operative credit structure within a period of two months from the date of the order of removal of the said Committee.”;

- (3) in sub-section (6), for the words “Before taking any action”; the words “Before making an order in writing removing the committee and appointing another committee in its place or one or more administrators” shall be substituted;

- (4) after sub-section (6), the following sub-section shall be added, namely:-

“(7) The remuneration of the Administrator appointed under sub-section (1) shall be such as may be determined by the Registrar and the same shall be paid from the fund of the society.”.

22. In the principal Act, after section 81, the following section shall be inserted, namely :-

Insertion of new  
section 81A in Guj.  
X of 1962.

Super session of  
Committee of  
Primary  
Agricultural  
Credit Co-  
operative Society.

**"81A. (1)** Notwithstanding anything contained in section 81, the supersession of the committee of the State Co-operative Bank or a Central Co-operative Bank under any provision of the Act shall be done only in consultation with Reserve Bank of India.

(2) The committee of a Primary Agricultural Credit Co-operative Society shall be removed by the Registrar only under the following circumstances, namely :-

- (i) if a society incurs losses for three consecutive years; or
- (ii) if serious financial irregularities or frauds have been identified; or
- (iii) if there is perpetual lack of quorum over a period of three months.

(3) The members of the committee of a Primary Agricultural Credit Co-operative Society which has been removed under sub-section (2) shall not be eligible to become a member of the committee for a period of three years from the date of such removal."

Amendment of  
section 82 in Guj. X  
of 1962.

**23.** In the principal Act, in section 82, after sub-section (3), the following sub-section shall be added, namely :-

**"(4)** The provisions of sub-sections (1) to (3) shall apply to the societies in the co-operative credit structure subject to the guidelines, if any, issued by the Reserve Bank of India."

Amendment of  
section 84 of Guj.  
X of 1962.

**24.** In the principal Act, in section 84, -

(1) to sub-section (1), the following proviso shall be added, namely :-

**"Provided that the audit of the Central Co-operative Banks and the State Co-operative Bank shall be conducted only by the Chartered Accountants from the panel approved by the National Bank.";**

(2) after sub-section (6), the following sub-section shall be inserted, namely :-

“(6A) The Registrar shall, by an order provide for a special audit of the co-operative credit structure on the basis of the recommendation of the Reserve Bank of India or, as the case may be, the National Bank. A copy of the report of such special audit shall be submitted to the Reserve Bank of India or, as the case may be, the National Bank within the period specified by the Reserve Bank of India or, as the case may be, the National Bank. The provisions relating to audit of accounts of the society made under this section shall also apply to such special audit.”.

(3) after sub-section (9), the following sub-sections shall be inserted, namely :-

“(10) The Registrar shall, in consultation with the National Bank prescribe Prudential Norms including Capital to Risk Weighted Assets Ratio for Primary Agricultural Credit Co-operative Societies.

(11) The Registrar shall, by an order, provide for the periodical inspection by the officers subordinate to the Registrar or by federal society or by financing bank, for a class of society under section 87 or, section 88.”.

25. In the principal Act, in section 115A, after sub-section (2), the following sub-section shall be inserted, namely :-

Amendment of  
section 115A of  
Guj. X of 1962.

“(2A) Notwithstanding anything contained in this Act or the rules made thereunder, the Registrar shall ensure the implementation of regulatory prescription given by the Reserve Bank of India including supersession and winding up of the State Co-operative Bank and the Central Co-operative Bank and shall appoint the liquidator within a period of one month of being so advised by the Reserve Bank of India.”.



Amendment of  
section 145F of  
Guj. X of 1962.

26. In the principal Act, in section 145F, after sub-section (1), the following sub-section shall be inserted, namely:-

“(1A) (i) (a) No member of a society in the Central Co-operative Bank and the State Co-operative Bank shall be eligible to be elected as a member in the committee if he is in default for a period of twelve months in payment of dues to the society;

(b) no person elected as a member of a society in the Central Co-operative Bank and the State Co-operative Bank shall be continued as a member if he is in default for a period exceeding twelve months in payment of dues to the society unless the amount in default with due interest is paid to the society;

(c) no member of a Primary Agricultural Credit Co-operative Society shall be eligible to be elected as a member in the committee of the State Co-operative Bank or a Central Co-operative Bank if the society is in default in payment of dues to the co-operative bank unless the default with due interest is paid to the co-operative bank;

(d) no member of a non-credit society who is a member in the committee of a Central Co-operative Bank or the State Co-operative Bank shall be continued as such member if the society commits default for a period exceeding 90 days in payment of dues to the bank.

(ii) The above provisions shall be in addition to and not in derogation of any other provisions for disqualification contained in this Act.”.

Amendment of  
section 146 of  
Guj. X of 1962.

27. In the principal Act, in section 146, after sub-section (2), the following sub-section shall be added, namely:-

“(3) No Primary Agricultural Credit Co-operative Society shall use the word “bank”, “banker”, “banking” or any other derivative

of the word "bank" in its name and the existing society using such name shall be deregistered by the Registrar."

28. In the principal Act, in section 161, after the existing proviso, the following proviso shall be added, namely:-

Amendment of  
section 161 of  
Guj. X of 1962.

"Provided further that the aforesaid provision shall apply to societies in the co-operative credit structure subject to the guidelines issued by the Reserve Bank of India."

29. (1) If any difficulty arises in giving effect to the amendments made by this Act, the State Government may, by order, published in the *Official Gazette*, make such provisions not inconsistent with the provisions of the principal Act, as appears to it to be necessary or expedient for removing the difficulty :

Power to remove  
difficulty.

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before the State Legislature.

30. (1) The Gujarat Co-operative Societies (Amendment) Ordinance, 2007 is hereby repealed.

Repeal and  
savings.

Guj. Ord. 2 of  
2007.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

**STATEMENT OF OBJECTS AND REASONS**

The Government of India, based on **Vaidyanathan Committees Report**, has announced revival package for co-operative societies to be implemented through the NABARD. As per the package, agricultural credit sector i.e. Primary Agricultural Credit Co-operative Societies, Central Co-operative Banks and State Co-operative Bank will get the benefit of the package for compensating the losses in their balance sheet as on 31.3.2004 subject to certain conditions of Memorandum of Understanding (in short "MOU") signed by the Government of Gujarat with the Central Government and the NABARD. As per one of the conditions of the said MOU, the State Government was required to amend the various provisions of the Gujarat Co-operative Societies Act, 1961. As an undertaking was given by the State Government to the Government of India and the NABARD in the said MOU that pending such amendments (through Legislative Assembly) an Ordinance under article 213 of the Constitution shall be issued to give effect to the reforms.

In the Gujarat State, there are 7768 Primary Agricultural Credit Co-operative Societies, 18 Central Co-operative Banks and the apex body namely, the Gujarat State Co-operative Bank in the three-tier agricultural credit sector which are likely to be benefited by the revival package declared by the Government of India to be implemented through the NABARD.

In view of the fact that the stage of special audit for the purpose was almost completed so far and the State Government was likely to get the share of the revival package of Rs. 1106.58 crores from the Central Government as per the sharing pattern, and as initial payment, the NABARD would release seventy-five per cent. of the entitled amount i.e. around Rs. 800 crores in the current financial year, if the condition of legal reforms as per MOU as stated above has been complied with. It

was, therefore, considered necessary to amend the Gujarat Co-operative Societies Act, 1961.

The following are some of important amendments considered necessary to be made in the said Act as per the MOU signed by the Government of Gujarat with the Central Government and the NABARD :

- (1) ensuring full voting membership rights to all depositors / borrowers in co-operative societies other than co-operative banks,
- (2) providing autonomy to co-operative credit structure in all financial and internal administrative matters,
- (3) Restricting the State Government's equity to a maximum of twenty-five per cent. in any co-operative at any level and limiting State participation in the Committee of a co-operative bank to only one nominee and not to have any State nominee on the Committee of any Primary Agricultural Credit Co-operative Society. The State Government or a co-operative society at any level wishing to reduce the State equity further would be free to do so,
- (4) allowing freedom of any co-operative society in the co-operative credit structure to affiliate or disaffiliate with a federal structure of its choice and there would not be any restrictions of geographical boundaries for its operations,
- (5) allowing freedom for investments to be made by co-operative societies and permitting them to invest funds, subject to the guidelines as may be prescribed by the Reserve Bank of India,
- (6) permitting any co-operative in all the three tiers freedom to take loans from any RBI regulated financial institution, and refinance from NABARD or any other refinancing agency directly and not necessarily with only the federal tier to which it is affiliated,

- (7) powers taken for laying down guidelines for the purpose of payment of dividend by Primary Agricultural Credit Co-operative Societies in consultation with NABARD.

In addition to above, the provisions are also made for exclusion of defaulters from the voters list, provisions for maintaining Bad Debt Reserve Fund and provisions for periodical inspection by the Registrar of Co-operative Societies, financing bank and federal societies. The provisions are also made for availing loan facility to group of persons (self help groups) and for availing memberships to such group also in the Society. Some amendments in the Act is also proposed on the basis of changes as suggested by the NABARD after the Ordinance has been promulgated so as to give effect to the MOU signed by the State Government, Central Government and NABARD.

As the Gujarat Legislative Assembly was not in session, the Gujarat Co-operative Societies (Amendment) Ordinance, 2007 was promulgated to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

**DILEEP SANGHANI,**

### **FINANCIAL MEMORANDUM**

The Bill, if enacted and brought into force, would involve the expenditure from the Consolidated Fund of the State, as follows :-

The Government of India based on Prof. Vaidyanathan Committee's Report has announced the revival package for co-operative societies to be implemented through the NABARD. As per the package, three-tier agricultural credit sector of the State would get the benefit of the package for compensating the losses in their balance sheet as on 31.3.2004 subject to certain conditions of the Memorandum of Understanding (in short "MOU") signed by the Government of Gujarat with the Central Government and the NABARD.

The Central Government will bear 100% of the losses arising out of direct credit business of Primary Agriculture Co-operative Societies, 100% of the losses arising out of the agricultural credit business of



Central Co-operative Banks and State Co-operative Banks. The State Government has to bear 50% of the losses on account of Public Distribution System and input distribution, all dues pertaining to invoked and un-invoked guarantees and other receivables, and a portion of losses out of non-agricultural business of the Central Co-operative Banks and the State Co-operative Bank.

It is estimated that as per the sharing pattern the State Government has to borne about Rs. 88.49 crores as per the MOU. During the current year i.e. 2007-08, the State Government has made a provision of Rs. 50 lakhs as a non-recurring expenditure. Therefore, the provisions of this Bill, if enacted and brought into force, would have effect involving expenditure from the Consolidated Fund of the State to that extent.

**DILEEP SANGHANI,**

#### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects, namely:-

**Clause 5.-** Sub-section (5) proposed to be added in section 22 by sub-clause (3) of this clause empowers the State Government, by notification in the *Official Gazette*, to alter the limit of rupees ten thousand as specified in sub-section (4) of section 22 and also empower to specify such amount of deposit for a class of society and different amount may be specified for different class of societies. It also empowers the society to prescribe in its bye-laws, for linking shares for the borrowing members.

**Clause 11.-** Section 68 proposed to be substituted by this clause empowers the State Government to prescribe by notification in the *Official Gazette*, the rate of dividend to be paid by the society to its members.

**Clause 14.-** Clause (g) of sub-section (1) of section 71 proposed to be substituted by this clause empowers the State Government to prescribe by rules, the terms and conditions on which the society may invest or deposits its fund in any corporation owned or controlled by the Government of Gujarat or other Scheduled Bank not covered under clause (f) of that sub-section.

**Clause 15.-** New section 73A proposed to be inserted by this clause empowers the State Government to prescribe by rules, the manner subject to which a resolution at the annual general meeting of the society

for approving affiliation or disaffiliation with a federal society, in the co-operative credit structure.

**Clause 16.-** Sub-section (2) proposed to be inserted in section 74 by this clause empowers the Reserve Bank of India or Nationalised Bank to prescribe the qualifications of professionals to be appointed on the committee of the Central Co-operative Bank and the State Co-operative Bank.

**Clause 18.-** Proviso to section 76 proposed to be added by this clause empowers the Reserve Bank of India to determine the qualifications for appointment of Chief Executive Officer of the Central Co-operative Bank and the State Co-operative Bank.

**Clause 21.-** Sub-section (7) proposed to be added in section 81 by this clause empowers the Registrar to determine the remuneration of the Administrator.

**Clause 24.-** (i) Proviso to sub-section (1) proposed to be added in section 84 by sub-clause (1) of this clause empowers the State Government to prescribe by rules, the qualifications of the auditor;

(ii) sub-section (10) proposed to be added in section 84 by sub-clause (3) of this clause empowers the Registrar to prescribe the Prudential Norms including Capital to Risk Weighted Assets Ratio for the co-operative credit structure.

**Clause 29.-** This clause empowers the State Government to make such provisions, by order, published in the *Official Gazette*, for removing any difficulty arising within two years in giving effect to the provisions of this Act.

The delegation of the legislative powers as aforesaid is necessary and is of a normal character.

Dated the 15<sup>th</sup> January, 2008.

**DILEEP SANGHANI,**

By order and in the name of the Governor of Gujarat,

**H. D. VYAS**

Gandhinagar,  
Dated the 15<sup>th</sup> January, 2008

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.



# The Gujarat Government Gazette

## EXTRAORDINARY

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### PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

**THE REGISTRATION (GUJARAT AMENDMENT) BILL, 2008.**

**GUJARAT BILL NO. 2 OF 2008.**

#### A BILL

*further to amend the Registration Act, 1908 in its application to the State of Gujarat.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Registration (Gujarat Amendment) Act, 2008.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In the Registration Act, 1908 in its application to the State of Gujarat, in section 17, in sub-section (1), after clause (e) and before the proviso, the following clauses shall be inserted, namely :-

Amendment of section 17 of XVI of 1908.

“(f) power of attorney relating to transfer of immovable property possession whereof has been or is handed over to the purported attorney holder;

(g) instrument relating to the mortgage by deposit of title deeds:”.

**STATEMENT OF OBJECTS AND REASONS**

In absence of provisions for compulsory registration, attempts are being made to evade the payment of proper stamp duty and to make forged instruments of transfer of property. It is, therefore, considered necessary to make the document relating to power of attorney in respect of immovable property and the mortgage by deposit of title deeds compulsory registrable under the Registration Act, 1908.

This Bill seeks to amend the Registration Act, 1908 to achieve the aforesaid object.

**ANANDIBEN PATEL,**

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative power in the following respect :-

**Clause 1.-** Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which this Act shall come into force.

The delegation of legislative power as aforesaid is necessary and of a normal character.

Dated the 19<sup>th</sup> February, 2008.

**ANANDIBEN PATEL,**

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**

Gandhinagar,  
Dated the 19<sup>th</sup> February, 2007.

Secretary to Government of Gujarat,  
Legislative and Parliamentary Affairs  
Department.



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# The Gujarat Government Gazette

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### PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

#### THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS (REMOVAL OF DISQUALIFICATIONS) (AMENDMENT) BILL, 2008.

GUJARAT BILL NO. 3 OF 2008.

#### A BILL

*further to amend the Gujarat Legislative Assembly Members  
(Removal of Disqualifications) Act, 1960.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India, as follows:-

1. (1) This Act may be called the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Act, 2008.

Short title and  
commencement.

(2) It shall come into force at once.

2. In the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960, in the Schedule,-

Amendment of  
Schedule to Guj. I  
of 1960.

(1) after entry 1, the following entry shall be inserted, namely:-

“1A. Any office held by a Minister, Minister of State or Deputy Minister, whether *ex-officio* or by name.”;



(2) in the entry 11,-

(i) for the words "The office of Chairman or member of any Committee or body appointed by the Central or State Government", the words "The office of Chairman, Vice-Chairman, Director, Secretary or Member of any Committee or Statutory body appointed by the Central or State Government" shall be substituted;

(ii) in the proviso,-

(a) for the words "Chairman or any Member of such Committee or body", the words "Chairman, Vice-Chairman, Director, Secretary or Member of such Committee or Statutory body" shall be substituted;

(b) the words "Chairman or Member" at the end shall be deleted;

(3) in the entry 24, after the words "Government Chief Whip", the words "Government Deputy Chief Whip or Government Whip" shall be added.

**STATEMENT OF OBJECTS AND REASONS**

The Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960 specifies certain Offices under the Schedule, holder of which if chosen as or being a Member of the Gujarat Legislative Assembly shall not be disqualified as the Member of the Legislative Assembly.

It is considered necessary to amend the existing entry 11 of the Schedule so as to cover the office of Vice-Chairman, Director and Secretary of any Committee or Statutory body appointed by the Central or the State Government.

It has also been considered necessary to include the Office of Government Deputy Chief Whip and Government Whip in entry 24 of the Schedule to the aforesaid Act.

It is also experienced that the Minister, Minister of State or the Deputy Minister may be holding any Office whether *ex-officio* or by name. On account of the provisions of disqualifications in clause (1) of article 191 of the Constitution of India, doubt arises whether acceptance of such Office by a Minister would disqualify him for being a Member of Assembly. To remove this doubt, it has been decided to insert new entry 1A in the Schedule to the aforesaid Act.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

Dated the 19<sup>th</sup> February, 2008.

**AMIT SHAH.**

By order and in the name of the Governor of Gujarat

Gandhinagar,  
Dated the 19<sup>th</sup> February, 2008.

**H. D. VYAS,**  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs  
Department.



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# **The Gujarat Government Gazette**

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### **PART - V**

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 28th February, 2008 by SHRI BHARAT BAROT, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

**GUJARAT BILL NO. 4 OF 2008.**

**THE GUJARAT PHYSICIANS AND SURGEONS  
(CIVIL AND CRIMINAL IMMUNITY) BILL, 2008.**

#### **A BILL**

**to provide for civil and criminal immunity to physicians and surgeons withdrawing life sustaining treatment from patients suffering from terminal illness.**

WHEREAS it is expedient to provide for civil and criminal immunity to physicians and surgeons withdrawing life sustaining treatment from patients suffering from terminal illness;

It is hereby enacted in the Fifty Ninth Year of the Republic of India as follows: -



Short title,  
extent and  
commencement

1. (1) This Act may be called the Gujarat Physicians and Surgeons (Civil and Criminal Immunity) Act, 2008.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires:

(a) "maintenance medical treatment" means all artificial means or measures of whatever kind administered as medical or surgical treatment designed solely to sustain the life processes;

(b) "patient" means a person treated by a physician or surgeon for any illness; ailment, sickness or injury;

(c) "petitioner" means any person authorised by this Act who may petition a court for relief;

(d) "physician" and "surgeon" means a person authorised to practise medicine or surgery by or under the provisions of the Indian Medical Council Act, 1956 or any other law in force the time being;

(e) "terminal illness" or "terminal injury" means any illness or injury, which will in all probability result in the expiration of life, regardless of the use or discontinuance of medical or surgical treatment.

Withdrawal of  
maintenance  
medical  
treatment and  
exemption  
from civil or  
criminal  
liability.

3. (1) Where a patient of a sound mind and who is suffering from a terminal illness or terminal injury calls upon his physician or surgeon in writing to withdraw maintenance medical treatment, the physician or surgeon may comply with such request of the patient provided the provision or surgeon and a consultant unconnected with the case are satisfied that the patient is suffering from a terminal illness or terminal injury.

(2) Notwithstanding anything contained in any other law for the time being in force, where such physician or surgeon withdraws, maintenance medical treatment as provided in sub-section (1) he or she, the patient and members of his/ her family, shall be free from any civil or criminal liability whatsoever.

Declaration  
for  
withdrawal  
of  
maintenance  
medical  
treatment

4. Any person of sound mind shall be entitled to make declaration and give a power of attorney in the form appended to this Act and duly executed by such person expressing the desire that if at any time in the future he or she were to suffer from a terminal illness or terminal injury and be unable to express himself or herself, the wish embodied in the declaration and power of attorney shall, if it has been in operation for 30 days and has not been duly revoked in writing be given effect to by his physician or surgeon and the members of his/ her family; and in such circumstances the physician or surgeon and the members of his/her family complying the request made in the aforesaid declaration and power of attorney shall be free from any civil or criminal liability whatsoever.

5. Where a physician or surgeon in a hospital or institution fails to give effect to the request of the patient in the circumstances mentioned in section 3(1) above, that maintenance medical treatment be withdrawn and if the case is not transferred to another physician or surgeon who is willing to respond to the patient's request, the patient may file a petition in a District Court or in a Court exercising similar jurisdiction against such physician or surgeon praying for his / her wish to be respected, or for discharge from that hospital or institution and the Court shall give such relief to the petitioner as the Court may think fit. **Petition or withdrawal of maintenance medical treatment**
6. Where a physician or surgeon fails to respond to the wish of his patient as expressed in the declaration and the power of attorney made earlier by the patient under section 4, the executors of the patient may file a petition in a District Court or in a Court exercising similar jurisdiction against the physician or surgeon praying that the wish of the patient as expressed in the declaration and the power of attorney be given effect to and the Court shall give such relief to the petitioner as the Court may think fit. **Petition by executors of patient.**

### DECLARATION

(See section - 4)

This declaration is made by me .....

.....

.....of .....

at a time when I am of sound mind and after careful consideration.

- (1) If the time comes when I can no longer take part in decision for my own future, let this declaration stand as the testament to my wishes.
- (2) If there is no reasonable prospect of my recovery from physical illness or impairment expected to cause me severe distress or to render me incapable of rational existence or, my vital body functions are incapable of independent operation, I should be deemed to decline to receive artificial medical treatment and to ask to be kept free from pain distress.
- (3) If I suffer from heart attack, it is my request that efforts at resuscitation be abandoned at the end of three minutes.

In the absence of my ability to give directions regarding the use of such life sustaining processes, it is my intention that this declaration shall be honoured by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and accept the consequence from such refusal.

This declaration is signed and dated by me in the presence of the two under mentioned witnesses present at the same time who at my request in my presence and in the presence of each other have here unto subscribed their names as witnesses.

Dated.....

Signature.....



The declarant has been personally known to me and I believe him/ her to be of sound mind.

**Witness : 1**

**Name** .....

**Address** .....

**Signature** .....

**Witness : 2**

**Name** .....

**Address** .....

**Signature** .....

**Note : Witness should not be a member of the family.**

### POWER OF ATTORNEY

A power of Attorney given this ..... 20.....by me. ....

(Full name)

of .....

(Full Address)

WHEREAS (1) I have executed a declaration dated ..... 20 stating that in the circumstances there set out I should be deemed to decline to receive artificial medical treatment and to ask to be kept free from pain and distress.

I seek to ensure that the wishes expressed in my declaration fully respected.

(2)

NOW THIS DEED WITNESSES that I appoint .....of.....  
.....and .....of ..... who have expressed their acceptance to act as such, jointly or severally to be my attorneys for the purpose of securing compliance with the terms of my said declaration and I vest in my attorneys jointly or severally power to interpretation, make decision and take action on my behalf with regard to my said declaration notwithstanding any contrary views held by any other person.

I declare that this power of attorney shall remain in force during my life time until notice of its revocation is received by my attorneys AS WITNESSES my hand this day.

### SIGNED, SEALED AND DELIVERED

by me .....

in the presence of .....

(Full name) .....

of ..... (full address)

Red Water

Seal

Before me

Notary.

**STATEMENT OF OBJECTS AND REASONS**

The main purpose of the Bill is to authorize physicians and surgeons to withdraw all maintenance medical treatment as defined in the Bill in the case of a patient who is thought on reasonable ground to be suffering from a condition of a distressing and terminal character and who calls upon his physician or surgeon in writing to do so.

Medical science has now acquired life supporting systems and medications to extend life artificially for long period even after the loss of brain activities and the control of bodily functions. Many people today have a fear that they will be kept alive artificially in this manner, with consequent suffering and distress to them and members of their family. Since the decision to reject such artificial treatment should be of the patient alone and no one else, the Bill provides for voluntary passive euthanasia and does not provide for mercy killing of any kind.

As the law now stands, physicians and surgeons who wish, in the interest of compassion and humanity, to respond to the patient's wishes in a suitable case, are inhibited from acting in accordance with their conscience by the fear that they might be breaking the law of the land of which they are loyal citizens. It is, also possible that a doctor in such a predicament may be exposed to blackmail. It is therefore necessary that doctors who act with care and humanity are protected from prosecution and persecution.

In order that the right of a patient may be respected even after he is no longer able to participate in a decision about himself, it is proposed in the Bill to provide for the right of an adult person to make a written declaration and execute a power of attorney "pressing" his wish in advance of the event. The Bill does however mention that such power of attorney, if it should at any time be revoked in writing by the person concerned, shall not be operative.

Hence this bill

Dated : 30th January, 2008  
Gandhinagar.

**BHARAT BAROT**

M. L.A.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 1. - Sub- clause (3) of this clause empowers the State Government to appoint by notification in the Official Gazette the date on which the Act shall come in the force.

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Dated the 30th January, 2008.  
Gandhinagar.

**BHARAT BAROT**

M. L.A.

Gandhinagar.

Dated the 28th February, 2008.

**D. M. PATEL**

Secretary,

Gujarat Legislative Assembly



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### PART V

Bill introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 28th February, 2008 by Shri Kunvarjibhai Bavaliya, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

## GUJARAT BILL NO. 5 OF 2008.

**The Gujarat Eradication of Black Magic and Evil and Aghori Practices Bill, 2008.****A BILL**

*to bring social awakening and awareness in the society and to create a healthy and safe social environment with a view to protect the common people in the society against the evil and sinister practices and customs thriving, on ignorance, and to combat and eradicate the evil, sinister and aghori practices born out of beliefs propagated in the name of some so called divine or supernatural or magical powers or evil spirits commonly known as Black Magic by quacks and conmen with sinister motive of exploiting and harming mentally, physically and financially the common people in the society and thereby destroying the very social fibre of the society and for matters connected therewith and incidental thereto.*

WHEREAS alarming number of incidences of causing mental, physical and financial harm to and exploitation of the common people in the society because of evil, sinister aghori practices and practice of Black Magic and evil spirits at the hands of quacks and conmen, continuously have come to light:

AND WHEREAS under the circumstances it has become absolutely necessary for the Government to take appropriate and stringent social and legal measures to effectively contain such evil effects and spread of these harmful practices, usages and customs and belief in black Magic and such other evil and aghori practices and to save the common people from falling pray to the sinister designs of the black magicians, quacks and conmen, whose false claims of possessing magical or miraculously remedies of powers and anti-social and harmful activities are threatening to damage the very social fibre and the beliefs of the common people in the authentic and scientific medical remedies and cures and are driving them, on account of, blind beliefs and ignorance, to take recourse of such quacks, conmen and Black Magicians;

It is hereby enacted in the Fifty- Ninth Year of the Republic of India as follows:-

**1.(1)** This Act may be called the Gujarat Eradication of Black Magic and Evil and Aghori Practices Act, 2008.

Short title,  
extent and  
commencement.

**(2)** It extends to the whole of the State of Gujarat.



(3) It shall come into force on such date, as the State Government may, by notification in the *Official Gazette*, appoint.

## Definitions.

2. (7) In this Act, unless the context otherwise requires -
- (a) "Code" means the Code of Criminal Procedure, 1973;
- (b) "practice of Black Magic and evil and *aghori* practices" means the commission of the acts mentioned or described in the Schedule appended to this Act by any person himself or caused to be committed through or by instigating any other persons;
- (c) "prescribed" means prescribed by rules made under this Act;
- (d) "propagate" means issuance or publication of an advertisement, literature, article or book relating to or about Black Magic and evil and *aghori* practices and includes any form of direct or indirect help, abetment, participation or co-operation with regard to practice of Black Magic and evil and *aghori* practice;
- (e) "rules" means the rules made under this Act.

2 of 1974.

(2) Words and expressions used but not defined herein shall have respective meanings as assigned to them in the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and the Code.

21 of 1954.

## Prohibition of Black Magic.

3. (1) No person shall either himself or through any other person promote, propagate or practice or cause to promote, propagate or practice Black Magic and evil and *aghori* practices described in the schedule appended to this Act.

## Punishment

(2) On and after date of coming into force of this Act, advertisement, practice, propagation or promotion of Black Magic and evil and *aghori* practices in violation of the provisions of this Act by any person by himself or through any other person, shall constitute an offence under the provisions of this Act, and the person guilty of such offence shall, on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to seven years and a fine which shall not less than five thousand rupees but which may extend to fifty thousand rupees.

(3) Whoever abets commission of, or attempt to commit any act or offence punishable under this Act shall be deemed to have committed that offence and shall, on conviction, be punishable with the same imprisonment provided for such offence in sub-section (2).

(4) The offences punishable under this Act shall be cognizable and non-bailable.

## Jurisdiction to try offences.

4. No court inferior to that of a Metropolitan Magistrate or a Magistrate of a First Class shall try any offence punishable under this Act.

## Offences by companies.

5. (1) Where an offence under this Act has been committed by a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:



Provided that, nothing contained in this sub-section shall render any such person liable to any punishment under this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, responsible for exercise of proper care or supervision of the company in that respect, such director, manager, secretary or concerned officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation* ----- For the purposes of this section:-

(a) "company" means a body corporate and includes a firm, association of persons or body of individuals, whether incorporated or not; and also includes a trust, whether registered under any law for the time being in force or not; and

(b) "director" in relation to a firm, means a partner in the firm, and in relation to an association of persons or body of individuals, means any member controlling the affairs thereof; and in relation to a trust includes the person managing the affairs of the trust.

6 (1) The State Government may, by notification in the *Official Gazette*, and subject to such terms and conditions as may be specified in the notification, appoint for any one or more police stations as may be specified in such notification, one or more police officer to be known as Vigilance Officer;

Vigilance  
Officer.

Provided that, such police officer shall not be below the rank of an Inspector of Police.

(2) It shall be the duty of the Vigilance Officer—

(i) to detect and prevent the contravention or violation of the provisions of this Act or the rules made thereunder, in the area of his jurisdiction and report such cases to the nearest police station within the area of his jurisdiction; and upon filing of complaint to the police station by any victim or any other person on his behalf to ensure due and speedy action thereon and to give necessary advice, guidance and help to the concerned police station;

(ii) to collect evidence for the effective prosecution of persons contravening the provisions of this Act; and to report the same to the police station of the areas in which such contravention has been or is being committed;

(iii) to discharge such other functions as may be assigned to him, from time to time, by the State Government, by general or special orders issued in this behalf.

(3) Any person who obstructs the discharge of the official

duties or work of the Vigilance Officer appointed under sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

(4) The Vigilance Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of  
1860.

Power of  
entry, search  
etc.

7. (1) Subject to the general or special orders issued in this behalf by the State Government from time to time, the Vigilance Officer may, within the local limits of the area of his jurisdiction with the assistance of the police officers of his area

(i) enter and search, at all reasonable times, with such assistance, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;

(ii) seize any material, instruments or advertisement which, he has reason to believe that the same has been or is being used for any act or thing which is in contravention of the provisions of this Act;

(iii) examine any record, document or other material object found in any place mentioned in clause (i) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

(2) The provisions of the Code shall, so far as may be, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the Code.

(3) Where any person seizes anything under clause (ii) or (iii) of sub-section (1) he shall, as soon as may be, inform a magistrate and take his orders as to the custody thereof.

Application  
of provisions  
of Bombay  
Police Act,  
1951.

8. The provisions of sections 159 and 160 of the Bombay Police Act, 1951, shall apply to acts done in good faith by the Vigilance Officer under this Act, as if the Vigilance Officer is a police officer within the meaning of that Act.

Bom.  
XXII of  
1951.

Application of  
provisions of  
code

9. The provisions of the Code shall apply to the investigation and trail of offences under this Act.

Act to be in  
addition to  
and not in  
derogation of  
any other law.

10. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Publication  
of fact of  
conviction.

11. (1) Where any person is convicted of any offence punishable under this Act, it shall be competent for the Court convicting such offender to cause the name and place of residence of such person to be published by the police in the local newspaper where such offence had taken place together with the fact that such offender has been convicted of the offence under this Act and such other particulars as the court may deem fit and appropriate, to be allowed to be published.

(2) No such publication under sub-section (1) shall be made until the appeal (if any), filed against such order is finally disposed of.

12. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Rules made under this section shall be laid before the State Legislature for a period of thirty days as soon as possible after they are made and shall be subject to such modifications or rescission as the State Legislature may make during the session in which they are as laid or the session immediately following.

(3) Any modification or rescission so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

13. For the removal of doubt, it is hereby declared that, nothing in this Act, shall apply to the acts involving religious rites and rituals which does not adversely affect any person mentally, physically or financially.

Savings.

**SCHEDULE**

(1) Under the pretext of expelling the ghost assaulting by tying a person with rope or chain, beating by stick or whip, to make the person drink footwear soaked water, giving chilli smoke, hanging a person to roof, fixing him with rope or by hair or plucking his hair, causing pain by way of touching heated object to organs or body of a person, forcing a person to perform a sexual act in the open, practicing aghori acts, putting urine or human excreta forcibly in the mouth of a person or practicing any such acts.

(2) Display of so called miracles by a person and thereby earning money and to deceive, defraud and terrorize people by propagation and circulation of so called miracles.

(3) With a view to receive blessings of super natural power to follow the evil and aghori practices which causes danger to life or grievous hurt; and to instigate, encourage or compel others to follow such practices.

(4) Doing any inhuman act in search of precious things, bounty, water resource or for similar reasons in the name of karni, bhanamati and making or trying to make human sacrifice in the name of jaran-maran, or dev-devaski or to advice, instigate or encourage committing such inhuman acts.

(5) To create an impression by declaring that a divine spirit has influenced one's body or that a person has possessed such divine spirit and thereby create fear in the mind of others or to threaten others of evil consequences for not following the advise of such person.

(6) By declaring that a particular person practices kami, black magic or brings under the influence of ghost, or diminishes the milking capacity of a cattle by mantra-tantra, or create a suspicion about such person, or similarly accusing a particular person that he brings misfortune to others or is responsible for spread of diseases and thereby making the living of such person miserable, troublesome or difficult; to declare a person as satan or incarnation of satan.

(7) In the name of jaran-maran, kami, or witchcraft (chetuk), assaulting any person, parading him naked or put a ban on his daily activities.

(8) To create panic in the mind of public in general by way of invoking ghost by mantras, or threaten to invoke ghost, putting up a false show to make a person free from poisonous infection by invoking mantras or similar things, creating an impression that there is ghostly or divine wrath causing physical injuries and preventing a person from taking medical treatment and instead diverting him to practice aghori acts or treatment, threatening a person with death or causing physical pains or causing financial or psychological harm by practicing or tend to practice mantra-tantra (chetuk), black magic or aghori act.

(9) Prohibiting and preventing a person from taking medical treatment in case of dog, snake or scorpion bite and instead giving him treatment like mantra-tantra, ganda-dora or such other things.

(10) claiming to perform surgery by fingers, or claiming to change the sex of a foetus in womb of a woman.

(11) (a) To create an impression that oneself is having special super natural powers, incarnation of another person or holy spirit, or that the devotee was his wife, husband or paramour in past birth thereby indulging into sexual activity with such person :

(b) To keep sexual relations with a woman who is unable to conceive assuring her of motherhood through super natural power.

(12) To create an impression that a mentally retarded person is having super natural power and utilising such person for business or occupation.



**STATEMENT OF OBJECTS AND REASONS**

An alarming number of incidences of causing mental, physical and financial harm to, and exploitation of the common people in the society because of evil and aghori practices, practice of Black Magic and evil spirits, at the hands of quacks and conmen have come to light.

2. Under the circumstances it has become absolutely necessary for the Government to take appropriate and stringent social and legal measures to effectively contain and eradicate the evil effects and spread of these harmful practices and aghori practices and belief in Black Magic and such other evil and aghori practices and to save the common people from falling prey to the sinister designs of the black magicians, quacks and conmen, whose anti-social and harmful activities are threatening to seriously damage the very social fibre and the faith of the common people in the authentic and scientific medical remedies and cures and are driving them to take recourse to such quacks, conmen and black magicians, by enacting a special and stringent law to deal with such evil and aghori practices, customs, etc.

3. The salient features of the Act are as follows :-

(i) The practice, promotion and propagation of Black Magic, evil and aghori practices, and the unauthorized and illegal practice of medicine or healing or curing power by quacks, conmen, etc. is being prohibited by providing a definition of the term "practice of Black Magic and evil and aghori practice". Such practice is being made an offence under this Act and to serve as a deterrent, it is proposed to provide for the stringent penal provisions for such offences including making such offences cognizable and non-bailable ;

(ii) it is being provided that there would be a Vigilance Officer, who shall endeavour to detect and prevent, contravention of the provisions of this Act and the rules and collect evidence for effective prosecution of the persons contravening the provisions of this law;

(iii) it is proposed to provide for an enabling provision which would empower the court to publish the details relating to the conviction of a person for commission of an offence under the provisions of this law ; and;

(iv) provision for other incidental and connected matters.

4. The Bill seeks to achieve the above objectives.

Dated the 8th February, 2008.

Gandhinagar.

**KUNVARJIBHAI BAVALIYA**  
**MLA**

V-EX. 5-3

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

The Bill involves the following proposals for delegation of legislative power, namely:-

Clause 1(3) - Under this clause, power is taken to the State Government to bring the Act into force on such date as it may, by notification in the *Official Gazette*, appoint.

Clause 6(1) - Under the clause, power is taken to the State Government to appoint, by notification in the *Official Gazette*, for one or more police stations, as may be specified in such notification, an officer or officers to be known as the Vigilance Officer.

Clause 12 - Under this clause, power is taken to the State Government to make rules, by notification in the *Official Gazette*, for carrying out the purposes of this Act, subject to the condition of previous publication.

The above proposals for delegation of legislative power are of a normal character.

Dated the 8th February, 2008  
Gandhinagar.

**KUNVARJIBHAI BAVALIYA**  
**M.L.A.**

Gandhinagar.  
Dated the 28th February, 2008.

**D. M. PATEL,**  
Secretary,  
Gujarat Legislative Assembly.



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# The Gujarat Government Gazette

## EXTRAORDINARY

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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

### PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

### THE GUJARAT (SUPPLEMENTARY) APPROPRIATION BILL, 2008.

GUJARAT BILL NO. 6 OF 2008.

### A BILL

*to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2008.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 2008. Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of two thousand eight hundred fifty-six crores, nine lakhs, seventy-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 2008, in respect of the services and purposes specified in column 2 of the Schedule. Issue of Rs. 28,56,09,75,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 2007-2008.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

SCHEDULE					
(See Section 2 and 3)					

No. of Vote / Appropriation.	Services and Purposes.	Revenue/ Capital.	Voted.	Sums not exceeding Charged on the Consolidated Fund.	Total.
			Rs.	Rs.	Rs.
1	Agriculture and Co-operation Department	Revenue	8595000		8595000
2	Agriculture	Revenue	896972000	142000	897114000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	516250000		516250000
4	Animal Husbandry and Dairy Development	Revenue	49870000	310000	50180000
5	Co-operation	Revenue	118067000		118067000
6	Fisheries	Revenue	951127000		951127000
7	Other Expenditure pertaining to Agriculture and Co-operation Department	Revenue		94000	94000
		Capital	1500000		1500000
8	Education Department	Revenue	3388000		3388000
9	Education	Revenue	2342569000	697806000	3040375000
		Capital	1000		1000
10	Other Expenditure pertaining to Education Department	Revenue	2125000		2125000
11	Energy and Petrochemicals Department	Revenue	1388000		1388000
12	Tax Collection Charges (Energy and Petrochemicals Department)	Revenue	6960000		6960000
13	Energy Projects	Revenue	909401000		909401000
		Capital	2000		2000
15	Finance Department	Revenue	4165000		4165000
16	Tax Collection Charges (Finance Department)	Revenue	185467000		185467000
17	Treasury and Accounts Administration	Revenue	58630000		58630000
18	Pension and other Retirement Benefits.	Revenue	2575343000		2575343000
21	Food, Civil Supplies and Consumer Affairs Department	Revenue	3864000		3864000
22	Civil Supplies	Revenue	32797000		32797000
23	Food	Revenue	1325000		1325000

No. of Vote / Appropriation.	Services and Purposes.	Revenue/ Capital.		Sums not exceeding	
			Voted.	Charged on the Consolidated Fund.	Total.
1	2			3	
			Rs.	Rs.	Rs.
25	Forest and Environment Department	Revenue	1716000		1716000
26	Forest	Revenue	213619000	1050000	214669000
		Capital	1116000		1116000
27	Environment	Revenue	3250000		3250000
29	Governor	Revenue		2815000	2815000
31	Election	Revenue	310444000		310444000
32	Public Service Commission	Revenue	25850000	12713000	38563000
33	General Administration Department	Revenue	50413000		50413000
34	Economic Advice and Statistics	Revenue	17011000		17011000
35	Other Expenditure pertaining to General Administration Department	Revenue	265205000	2000	265207000
		Capital	4113000		4113000
36	State Legislature	Revenue	1340000		1340000
38	Health and Family Welfare Department	Revenue	2650000		2650000
39	Medical and Public Health	Revenue	323444000	12000	323456000
		Capital	41780000		41780000
40	Family Welfare	Revenue	59804000		59804000
41	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	315000		315000
		Capital	5000000		5000000
42	Home Department	Revenue	1490000		1490000
43	Police	Revenue	1237151000	235649000	1472800000
44	Jails	Revenue	47179000	100000	47279000
45	State Excise	Revenue	24215000		24215000
46	Other Expenditure pertaining to Home Department	Revenue	1170000	99000	1269000
		Capital	97811000		97811000
47	Industries and Mines Department	Revenue	5165000		5165000
48	Stationery and Printing	Revenue	505000		505000
49	Industries	Revenue	36700000		36700000
		Capital		590000	590000
50	Mines and Minerals	Revenue	60000		60000
52	Other Expenditure pertaining to Industries and Mines Department	Revenue		266000	266000



No. of Vote / Appropriation.	Services and Purposes.	Revenue/ Capital.		Sums not exceeding	
			Voted.	Charged on the Consolidated Fund.	Total.
1	2			3	
			Rs.	Rs.	Rs.
53	Information and Broadcasting Department	Revenue	1126000		1126000
54	Information and Publicity	Revenue	118515000		118515000
55	Other Expenditure pertaining to Information and Broadcasting Department	Revenue	1198000		1198000
56	Labour and Employment Department	Revenue	790000		790000
57	Labour and Employment	Revenue	12867000		12867000
59	Legal Department	Revenue	2920000		2920000
60	Administration of Justice	Revenue	266885000	1000	266886000
61	Other Expenditure pertaining to Legal Department	Revenue	25164000		25164000
62	Legislative and Paliamentary Affairs Department	Revenue	2693000		2693000
63	Other Expenditure pertaining to Legislative and Paliamentary Affairs Department	Capital	2200000		2200000
64	Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	13765000		13765000
65	Narmada Development Scheme	Capital	2000000000		2000000000
66	Irrigation and Soil Conservation	Revenue	1213954000	4469000	1218423000
		Capital		24979000	24979000
67	Water Supply	Capital	648093000		648093000
68	Other Expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	1000000	70501000	71501000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	4950000		4950000
70	Community Development	Revenue	321420000		321420000
71	Rural Housing and Rural Development	Revenue	113886000	4436000	118322000
72	Compensation and Assignments	Revenue	471342000		471342000
74	Transport	Revenue	153567000		153567000
		Capital	350000000		350000000

No. of Vote / Appropriation.	Services and Purposes.	Revenue/ Capital.		Sums not exceeding	
			Voted.	Charged on the Consolidated Fund.	Total.
1	2			3	
			Rs.	Rs.	Rs.
75	Other Expenditure pertaining to Ports and Transport Department	Revenue	1695000		1695000
77	Tax Collection Charges (Revenue Department)	Revenue	159823000		159823000
78	District Administration	Revenue	11972000		11972000
79	Relief on account of Natural Calamities	Revenue		32000	32000
80	Dangs District	Revenue	11388000		11388000
81	Compensation and Assignments	Revenue		1000	1000
82	Other Expenditure pertaining to Revenue Department	Revenue	697293000		697293000
		Capital	995000		995000
84	Non-Residential Buildings	Revenue	105194000	487000	105681000
		Capital	14000	22000	36000
85	Residential Buildings	Revenue	1005000		1005000
86	Roads and Bridges	Revenue	185874000	7867000	193741000
		Capital		23041000	23041000
88	Other Expenditure pertaining to Roads and Buildings Department	Revenue		83339000	83339000
89	Science and Technology Department	Revenue	1525000		1525000
91	Social Justice and Empowerment Department	Revenue	15220000		15220000
94	Other Expenditure pertaining to Social Justice and Empowerment Department	Capital	112000		112000
95	Scheduled Castes Sub Plan	Revenue	778688000		778688000
		Capital	1000		1000
96	Tribal Area Sub-Plan	Revenue	523924000	11308000	535232000
		Capital		5322000	5322000
97	Sports, Youth and Cultural Activities Department	Revenue	973000		973000
98	Youth Services and Cultural Activities	Revenue	27815000		27815000
100	Urban Development and Urban Housing Department	Revenue	1735000		1735000
101	Urban Housing	Revenue		15910000	15910000

No. of Vote / Appropriation.	Services and Purposes.	Revenue/ Capital.		Sums not exceeding	
			Voted.	Charged on the Consolidated Fund.	Total.
1	2			3	
			Rs.	Rs.	Rs.
102	Urban Development	Revenue	7287846000	572000	7288418000
		Capital	1000		1000
104	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue	349000		349000
105	Women and Child Development Department	Revenue	363000		363000
106	Other Expenditure pertaining to Women and Child Development Department	Revenue	368577000	1000	368578000
Total :-		Revenue	24204300000	1149982000	25354282000
		Capital	3152739000	53954000	3206693000
Grand Total :-			27357039000	1203936000	28560975000

**STATEMENT OF OBJECTS AND REASONS**

This Bill is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty first day of March, 2008.

The amounts are shown below: -		Rs.
(a)	Revenue Expenditure	25,35,42,82,000
(b)	Capital Expenditure	3,20,66,93,000
<b>Total :-</b>		<b>28,56,09,75,000</b>

Gandhinagar,  
Dated the 5<sup>th</sup> March, 2008.

**VAJUBHAI VALA,**

By order and in the name of the Governor of Gujarat,

Gandhinagar,  
Dated the 5<sup>th</sup> March, 2008.

**H. D. VYAS,**  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary  
Affairs Department.





# The Gujarat Government Gazette

## EXTRAORDINARY

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#### PART - V

#### Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 14th March, 2008 by Smt. Vibhavariben Dave M.L.A. is Published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 7 OF 2008

#### THE GUJARAT PROHIBITION ON OBSCENE ADVERTISEMENTS, PHOTOGRAPHS AND POSTERS BILL, 2008

#### A BILL

*to provide for the prohibition on obscene advertisements, photographs and posters in the State of Gujarat*

It is hereby enacted in the Fifty Ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Prohibition on Obscene Advertisements, Photographs and Poster Act, 2008. Short title, extent and commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

41 of 1860.

2. In this Act, unless the context otherwise requires, the word "obscene" shall have the meaning as assigned to in the Indian Penal Code. Definition.

3. No person shall publish, sell, let to hire, publicly exhibit or in any manner put into circulation or for purposes of publication, sale, hire, distribution, public exhibition or circulation, make produce or have in his possession any obscene advertisements, photographs or posters whatsoever. Prohibition on obscene advertisements, photographs and posters.

4. Whoever contravenes or abets the contravention of the provision of section 3 shall, on conviction, be punished with imprisonment which may extend to one year or fine which may extend to one thousand rupees or with both. Penalties.



**STATEMENT OF OBJECTS AND REASONS**

Of late, the publication of obscene advertisements, photographs and posters are being resorted to on wide scale, this creates an unhealthy atmosphere for the society in general and particularly for younger generation. This is totally against the moral concept of public opinion.

It is therefore, high time now to prevent this immoral practice, as existing laws or rules thereunder are found inadequate and ineffective.

Hence this Bill.

**Dated : the 29th February, 2008.**  
**Gandhinagar.**

**VIBHAVERIBEN**  
**M.L.A.**

**Gandhinagar.**  
**Dated the 14th March, 2008.**

**D. M. PATEL**  
**Secretary,**  
**Gujarat Legislative Assembly.**



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## PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 14th March, 2008 by Shri Govindbhai Prajapati M.L.A. is Published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 8 OF 2008.

### THE GUJARAT PRESERVATION AND CONTROL OF POPULATION OF PIGS BILL, 2008.

#### A, BILL

*to preserve and to control the population of pigs in the State of Gujarat and for matters connected therewith.*

It is hereby enacted in the Fifty ninth year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Preservation and control of population of Pigs Act, 2008. - Short title  
extent and  
commencement
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.

Bom. LIX of  
1949  
Guj. XXXIV  
of 1963  
Guj. XVIII of  
1993.

2. The words "local Authority" used but not defined in this Act, shall have the meaning assigned to them in the Bombay Provincial Municipal Corporations Act, 1949, or the Gujarat Municipalities Act, 1963 or the Gujarat Panchayats Act, 1993 as the case may be. Definitions of  
"local  
authority".

System of capturing the Pigs.

3. (1) The present system of capturing the pigs by contract method by the local authorities shall be abolished at once.

(2) The pigs shall be captured only by the local authority personnel.

Preservation shelter and food to pigs.

4. (1) The local authority shall preserve properly the captured pigs and shall arrange to preserve them in shelter houses.

(2) It shall be the duty of the local authority to establish and maintain well prepared shelter houses having proper food and water facilities for pigs captured by it.

Control of Population of pigs.

5. (1). It shall be the duty of local authority to make all reasonable efforts to control the population of pigs.

(2) For the purpose referred to in sub-section (1) every pig shall be undertaken for the sterilisation operation in due course by the local authority.

Power to make rules.

6. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) The power to make rules under this Act, shall be subject to the condition of previous publication.

(3) All rules made under this Act by the State Government shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the Legislature may make during the session in which they are so laid, or the session immediately following.

### STATEMENT OF OBJECTS AND REASONS

The present system of capturing the pigs by the contractor is cruel and painful for the pigs, therefore, it needs to be changed. It is suggested that this work should be assigned to the own staff of the local authority, who will carefully and painlessly capture the pigs.

It is welknown fact that the captured pigs are ultimately sent to slaughter houses and their meat is served in particular hotels. To remove this, it is suggested that the pigs shall be preserved carefully and shall be kept in shelter houses made for them.

It is necessary to control the population of pigs. Therefore it is suggested that the pigs shall be undertaken for the sterilisation operations.

Hence this Bill.

Gandhinagar  
Dated the 3rd March, 2008.

GOVINDBHAI PRAJAPATI,  
M.L.A.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 6 of the Bill, empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Gandhinagar  
Dated the 3rd March, 2008.

GOVINDBHAI PRAJAPATI,  
M.L.A.

**FINANCIAL MEMORANDUM**

This Bill, if enacted and brought into operation would incur expenditure for additional staff for capturing pigs, preservation of pigs, establishment and maintainance of shelter houses for pigs and for undertaking the sterilisation operations of pigs.

It is presumed and expected that the local authority shall itself make necessary arrangement for the required fund from its own sources and therefore, no extra expenditure will be incurred from the Consolidated Fund of the State of Gujarat.

Gandhinagar  
Dated the 3rd March, 2008.

GOVINDBHAI PRAJAPATI,  
M.L.A.

Gandhinagar.  
Dated the 14th March, 2008.

D. M. PATEL  
Secretary,  
Gujarat Legislative Assembly.



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## PART - V

### Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 14th March, 2008 by Shri Mafatbhai Purohit M.L.A. is Published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

### GUJARAT BILL NO. 9 OF 2008.

### THE GUJARAT MAINTENANCE OF PARENTS AND DEPENDANTS BILL, 2008.

#### A BILL

*to provide for the maintenance of Parents, wives and children and for matters connected therewith.*

It is hereby enacted in the Fifty Ninth year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Maintenance of Parents and Dependants Act, 2008 Short title, and commencement.
- (2) It shall come into force on such date as the State Government may, by Notification in the *Official Gazette*, appoint.
2. In this Act, unless the context otherwise requires,— Definitions.
  - (a) "appellate authority" means an officer, not below the rank of a District Collector, authorised by the State Government to hear the appeals under section 16 of this Act;
  - (b) "applicant" includes a person in whose favour a maintenance order has been made under the provisions of this Act;
  - (c) "approved person or organisation" means a person or an organisation that has been approved under section 20 by the State Government in writing for the purposes of this act,
  - (d) "child" includes -an illegitimate, adopted and step child;
  - (e) "dependant" includes-
    - (i) Parents and grand parents, so long as they are unable to maintain themselves or unable to obtain maintenance in the case of grand parents from their sons and daughters;
    - (ii) wife; so long as she does not remarry,



- (iii) son or the son of pre-deceased son, so long as he is minor, provided and to the extent that he is unable to obtain maintenance, in the case of grand-son from his father's or mother's estate;
- (iv) unmarried daughter or unmarried daughter of the pre-deceased son, so long as she remains unmarried; provided and to the extent that she is unable to obtain maintenance in case of a grand daughter from her father's and mother's estate,
- (v) widowed daughter; provided that and to the extent that she is unable to obtain maintenance—
  - (a) from the estate of her husband;
  - (b) from her son or daughter, if any, or his or her estate, or
  - (c) from her father-in-law or her grand father or the estate of either of them;
- (vi) any widow of the son or of the son of the pre-deceased son, so long as she does not remarry; provided and to the extent that she is unable to obtain maintenance from the estate of her husband or from her son or daughter, if any, or his or her estate; or in the case of a grandson's widow, also from her father-in-law's estate;
- (vii) minor illegitimate son, so long as he remains a minor,
- (viii) illegitimate daughter, so long as she remains unmarried;
- (f) "District Collector" means the Collector of the District appointed by the Government of Gujarat;
- (g) "Maintenance Officer" means the maintenance officer for the maintenance of Parents and Dependents appointed under section 12,
- (h) "prescribed" means prescribed by rules made under this Act,
- (i) "property" means property of any kind, whether movable or immovable, tangible; or intangible; and includes any rights or interest in such property;
- (j) "respondent" includes a person against whom a maintenance order has been made under the provisions of this Act;
- (k) "Tribunal" means the Tribunal for the maintenance of parents and dependents established under Section 13.

Application  
for  
maintenance  
orders.

3. (1) Any person, who is unable to maintain himself and is resident of the State of Gujarat; may apply to the Tribunal for an order;

- (i) in case of a parent or grand parent of or above 60 years of age, that one or more of his children or grand children;
- (ii) in case of wife, that her husband;
- (iii) in case of minor son or unmarried daughter, that his or her father and where father is dead his or her mother,
- (iv) in case of dependent (other than a parent, grant parent, wife minor son or unmarried daughter) if such dependent has not obtained; by testamentary or intestate succession, any share in an estate of his ancestor, that the persons who take the share,

Pay him a monthly allowance or any other periodical payment or a lumpsum. for his, maintenance.

(2) An approved person or organisation in whose care a parent, wife, child or dependent resides may apply to the Tribunal for an order that the respondent pay the approved person or organisation a monthly allowance or any other periodical payment or a lumpsum for the purpose of defraying the costs and expenses of maintaining that parent, wife, child, or a dependent, as the case may be.

- (3) Where a parent, wife, child or dependent ceases to be in the care of 'the approved person or organisation any part of the monthly allowance, other periodical payment or lumpsum remaining, after deducting the reasonable cost and' expenses of maintaining such parent, wife, child and the dependent shall be held in trust for such parent, wife, child and the dependent, as the case may be.
- (4) Notwithstanding that a person is below the minimum age specified in sub-section (1), this Act shall apply to that person if the Tribunal is satisfied, that he is suffering from infirmity of mind or body which prevents him from maintaining or makes it difficult for him to maintain himself or that 'there is, any other special reason.

*Explanation* – For the purposes of this section, a parent shall be deemed to maintain himself if his total or expected income and other financial resources are inadequate to provide him with basic amenities and basic physical needs including (but not limited to) shelter, food and clothing.

4. A respondent may serve notice in the prescribed form on other persons liable to maintain the applicant joining them as respondents in the action. Joinder of respondents.
5. (1) The Tribunal may make a maintenance order if it consider that it is just and equitable that the respondent should maintain the applicant and that— Maintenance Order.
- (a) the respondent is able to provide maintenance to the applicant after his own requirements and of his spouse and his children have been supplied ; and
- (b) the applicant is unable, inspite of efforts on his part, to maintain himself through work or from his property or from any other source,
- (2) When ordering maintenance for the benefit of wife, child or aged or infirm parents, the Tribunal shall have regard to all the circumstances of the case including (but not limited to) the following matters;
- (a) the financial needs of the applicant, taking into account reasonable expenses for housing and medical costs;
- (b) the income, earning capacity, property and other financial resources of the applicant and the manner in which an applicant has spent his saving or dissipated his financial resources;
- (c) any physical or mental disability of the applicant,
- (d) the income, earning capacity; property and other financial resources of the respondent;
- (e) the expenses incurred by the respondent in supporting his spouse or children;
- (f) the contributions and provisions, whether financial or otherwise, which the respondent has made for the maintenance of the applicant;
- (g) if the applicant is living separately, whether the applicant is justified in doing so.
- (3) When ordering maintenance, if any, for the benefit to a dependant (other than wife, minor son, unmarried daughter and parents) regard shall be had to :-
- (a) the net value of the estate of the deceased after providing for the payment of debts;
- (b) the provisions, if any, made under a will of the deceased in respect of the dependent,
- (c) the degree of relationship between the two,
- (d) the reasonable wants of the dependent;

- (e) the past relations between the dependent and the deceased;
- (f) the value of the property of the dependent and any income derived from the property or from his or her earning or from any other source;
- (g) the number of dependents entitled to maintenance under this Act.

- (4) Where there is more than one respondent the Tribunal may apportion the maintenance among the various respondents in such manner as may be just.
- (5) The Tribunal shall, before hearing an application under this section, refer the differences between the parties to a conciliation officer for mediation between the parties.

Power of  
Tribunal to  
order security  
for  
maintenance.

- 6. (1) A maintenance order may provide for the payment of lumpsum, or a monthly allowance or periodical payment for such period as the Tribunal may determine.
- (2) The Tribunal may, in its discretion, when awarding maintenance, order the respondent to, secure the whole or any part of it by vesting any property in trustees upon trust to pay the maintenance or part thereof out of the income from that property.

- (3) The Tribunal may, in awarding maintenance, order the applicant to-
  - (a) deposit such minimum sum as the Tribunal may determine with a bank or
  - (b) purchase an annuity with an insurer with such minimum sum.

- (4) The Tribunal may, in awarding maintenance, give directions as to the manner or method of payment.

Duration of orders  
for maintenance.

- 7. (1) Except where an order for maintenance is expressed to be for any shorter period or where any such order has been rescinded, a maintenance order shall expire—
  - (a) if the maintenance was unsecured, on the death of the applicant or the respondent, whichever is the earlier;
  - (b) if the maintenance was secured, on the death of the applicant.

- (2) Where a maintenance order was made against more than one respondent, the death of a respondent does not affect the liability of the others to continue paying maintenance to the applicant. The applicant may apply to the Tribunal to re-apportion the liability among the surviving respondents.

Power of  
Tribunal to vary  
orders for  
maintenance.

- 8. (1) The Tribunal may vary or rescind any subsisting order for maintenance, whether secured or unsecured, where it is satisfied that the order was based on any misrepresentation or mistake of fact or where there has been any material change in the circumstances of the applicant or respondents or where another person is joined as a respondent.

- (2) An application for variation of a maintenance order may be made by—

- (a) the applicant;
- (b) a respondent;
- (c) the Maintenance Officer;
- (d) an approved person organisation referred to in section 3(2), or
- (e) in respect of secured maintenance, the legal personal representative of a respondent.

- (3) Where a "maintenance order was made against more than one respondent or another respondent is joined, the Tribunal may re-apportion the maintenance upon an application to vary the maintenance order in such manner as it considers just.



9. Maintenance, payable to any person under this Act shall not be assignable or transferable or liable to be attached, sequestered or levied upon for, or in respect of, any debt or claim whatsoever.

Maintenance payable under order of Tribunal to be in alienable.

2 of 1974

10. (1) A Maintenance order made under this Act, shall have the same force and effect as an order passed under Chapter IX of the Code of Criminal Procedure, 1973, and shall be executed in the manner prescribed for the execution of such order by the code.

Enforcement of maintenance orders.

(2) An order for maintenance may be executed- either by the Tribunal which passed it or by other Tribunal or Ordinary Court to which it is sent for execution,

(3) In addition to the mode of execution of orders referred to in sub-sections (1) and (2) a maintenance order passed against a person, who is in receipt of salary from any State or Central Government, or from a local authority or from a Corporation engaged in any trade or industry which is established by a Central or State Government, or from a Government Company as defined in section 617 of the Companies act, 1956, may be executed by way of attachment of salary payable to him.

1 of 1956.

(4) Where the salary, is attached under sub-section (3), the Tribunal, whether the person liable to pay the amount of maintenance, or the employer or the officer disbursing the salary is or is not within the local limits of the Tribunal's jurisdiction may order that the salary not exceeding 1/3 shall be withheld from such salary by monthly instalments as the Tribunal may direct and upon notice of the order such employer or the disbursing officer, shall remit to the Tribunal the amount of the monthly instalments.

(5) Where the attachable portion of such salary is already being withheld and remitted to a court or a Tribunal in pursuance of a previous and unsatisfied order of attachment, the employer or the disbursing officer, shall forthwith return the subsequent order to the Tribunal issuing it with a full statement of all the particulars of the existing attachment.

(6) Every order made under sub-section (3) unless it is returned in accordance with the provisions of sub-section (5), shall without further notice or other process, bind the employer and the employer shall be liable for the sum paid in contravention of the provisions of sub-section (3), (4) and (5) of this section.

11. Where an applicant is unable to make an application under this Act, (whether by reason of physical or mental infirmity or for any other reason), such application may be made on his behalf by —

Applications on behalf of incapacitated applicants.

(a) any member of his family;

(b) any person in whose care he resides; or

(c) any other person whom the applicant has authorised to make such application.

12. (1) The State Government may appoint a maintenance Officer for the maintenance of Parents and Dependents on such terms and conditions as the State Government may determine.

Appointment of Maintenance Officer.

- (2) The maintenance officer may make an application under this Act on behalf of an applicant of or above 60 years of age or a minor child (whether of not the applicant is able to do so) or represent such applicant in any proceeding or appeal under this Act.
- (3) The maintenance officer may consult or direct any of his officers to consult, with the parties concerned in order to assist them to reach agreement by conciliation.
- (4) Notwithstanding that a person is below the minimum age specified in sub-section (2), the Maintenance Officer may, in his discretion, make an application on his behalf or represent him if the Maintenance Officer, is satisfied that he is suffering from infirmity of mind or body which prevents him from maintaining or makes it difficult for him to maintain himself or if there is any other special reason

Establishment  
of Tribunal  
for  
Maintenance  
of Parents  
and  
Dependants.

13. (1) For the purpose of exercising the jurisdiction and powers conferred on a tribunal for maintenance of Parents and Dependants by this Act, Government shall, as soon as may be after the commencement of this Act, establish, in every district, as many Tribunal for Maintenance of Parents and Dependants and at such places, as the State Government may by notification specify.
- (2) The Presiding Officers of such Tribunal, who shall not be a lower in rank of the Deputy Collector or Mamlatdar shall be appointed by the State Government.
- (3) The Presiding Officer of the Tribunal shall vacate his office where-
  - (a) he resigns; or
  - (b) Where he has been appointed by virtue of holding any officer, he ceases to hold that officer;
- (4) Where a person ceases to be the Presiding officer of the Tribunal, the State Government shall, as soon as is reasonably practicable, take steps to fill the vacancy but the existence of any vacancy in the tribunal shall not invalidate the acts of the tribunal.
- (5) If the presiding officer of the tribunal is for the time being unable to perform the duties of his office either generally or in relation to any particular proceedings the State Government may appoint some other person to discharge the duties of the Presiding officer for any period, not exceeding six months at one time or as the case may be, in relation to those proceedings; and a person so appointed shall, during that period or in relation to those proceedings, have the same powers as the person in whose place he is appointed.
- (6) The presiding officer of the Tribunal when and so long as he is serving on the Tribunal shall be deemed to be a public servant within the meaning of the Indian Penal Code and the proceedings of the Tribunal shall be deemed to be judicial proceedings.

45 of 1860

Tribunal to  
hear and  
determine  
claims.

14. (1) The Tribunal shall have jurisdiction to hear and determine in accordance with this Acts all applications made under this Acts.
- (2) The Tribunal shall decide every application made to it expeditiously as possible and ordinarily every application shall be decided within a period of six months reckoned from the date on which such application has been made.
- (3) Sittings of the Tribunal shall be held at such places and times as the Presiding officer of the Tribunal may determine.



- (4) Any interested party may be represented before the Tribunal-
- (a) by an agent acting without fee, gain, reward or any expectation thereof, in any case in which the tribunal may, at the request of that party and for good reason, permit,
  - (b) by the Maintenance Officer,
  - (c) by, an approved person or organisation through any of its employees or office holders.
- (5) No party to any proceedings before the tribunal may be represented by an Advocate.
- (6) Every summons and notice issued under the hand of the Presiding Officer of the tribunal to any person shall be served on that person-
- (a) by delivering the summons to the person or to some adult member of his family at his last known place of residence-
  - (b) by leaving the summons at his usual or last known place of residence or business in an envelop addressed to the person,
  - (c) by sending the summons by registered post addressed to the person at his usual or last known place of residence or business; or
  - (d) Where the person is a body of persons or a Company—
    - (i) by delivering the summons to the Secretary or other like officer of the body of persons or company at its registered office or principal place of business; or
    - (ii) by sending the summons by registered post addressed to the body of persons of company at its registered office or principal place of business.
- (7) Any summons or notice sent by registered post to any person in accordance with sub-section (6) shall be deemed to be duly served on the person to whom the letter is addressed at the time when the letter would in the ordinary course of post be delivered and in proving service of the summons, it shall be sufficient to prove that the envelop containing the summons was properly addressed, stamped and posted by registered post.
- (8) The Tribunal shall have the following powers :-
- (a) to dismiss frivolous or vexatious claims at a preliminary stage on the basis on the affidavits and other documentary evidence,
  - (b) to summon any person to appear before a Conciliation Officer for the pupose of mediation;
  - (c) to summon any person whom it may consider able to give evidence to attend at the hearing of an application,
  - (d) to examine such person as a witness either on oath or otherwise and to require such person to produce such records, documents or articles as the Tribunal may think necessary for the purposes of the proceedings;
  - (e) to allow any person, attending the proceedings any reasonable expenses necessarily incurred by him in so attending to be paid by such party as the Tribunal may determine,
  - (f) to make an order by consent of the parties, and
  - (g) all the powers of a Magistrate with regard to the enforcement of attendance of witnesses and hearing evidence on oath.
- (9) Every person examined as a witness by or before the Tribunal whether on oath or otherwise, shall be legally bound to state the truth and to produce such records, documents or articles as the Tribunal may require.

- (10) The Tribunal may receive as evidence any report, statement, document, information or a matter that may, in its opinion, assist it to deal effectively with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872.
- (11) In proceedings before the Tribunal it shall not be necessary to record the evidence of witnesses at length, but the Tribunal, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of the substance of what a witness deposes, and such memorandum shall be signed by the witness and the Presiding Officer of the Tribunal and shall form part of the record.
- (12) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all exception, be read in evidence in any proceeding before the Tribunal.
- (13) The Tribunal may, if it thinks fit, and shall on the application of any of the parties to the proceedings summon and examine any such person as to the facts contained in his affidavit.

Appellate  
Authority  
may call for  
proceedings  
of the  
Tribunal.

- 15. (1) The Appellate Authority either on its own motion or on the application within 14 days of any party aggrieved by a decision of the Tribunal on the ground that it is wrong in law, may call for the proceedings and the grounds of the award and give such order thereon, either by directing a fresh hearing or otherwise, as seems necessary to secure that substantial justice is done,
- (2) The powers of revision conferred under this section shall not question the decision of the Tribunal as to the quantum of maintenance awarded or apportioned under this Act.

Appeals

- 16. (1) Except as provided in this section and section 15, of the decision of the Tribunal shall be final.
- (2) The applicant, the Maintenance Officer on behalf of the applicant, a respondent, an approved person or organisation, or any affected party may appeal to the Appellate authority appointed by the State Government in this behalf from the decision of the Tribunal upon any question of law or of mixed law and fact except in any case where the Tribunal has made the order with the consent of the parties unless it is alleged that the consent was obtained by means of fraud, duress, threat or misrepresentation.
- (3) The Appellate Authority shall decide every appeal preferred to it as expeditiously as possible and ordinarily every appeal shall be decided within a period of three months reckoned from the date on which such appeal is preferred.
- (4) The procedure governing such appeals under sub-section (2) and (3) shall be the same as that for appeals from decisions of the District Court to the High Court.
- (5) The Appellate Authority shall have jurisdiction to hear and determine any such appeal and may confirm, vary or annul the decision of the Tribunal on appeal and make such further or other order on such appeal, whether as to costs or otherwise, as the Appellate Authority may consider fit.
- (6) There shall be no further right to appeal from decision of the Appellate Authority.

Costs

- 17. The Costs of:—

- (a) an application under this Act shall be in the discretion of the Tribunal
- (b) an appeal shall be in the discretion of the appellate Authority hearing the appeal.

18. (1) Where any person, who, after the commencement of this Act, has transferred, by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferer and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of the property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferer be void
- Effect of  
Transfer of  
Property on  
right of  
maintenance
- (2) Where any person has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transfer if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.
19. The State Government may approve—
- Approved  
person or  
organisations
- (a) institutions or organisations engaged in social welfare or the representatives thereof;
- (b) persons professionally engaged in promoting the welfare of the family,
- (c) persons working in the field of social welfare, and
- (d) any other persons;
- Whose association with a Tribunal would enable it to exercise its jurisdiction more effectively in accordance with the purpose of this Act.
20. The provisions of this Act shall be in addition to and not in derogation of the provisions of Chapter IX (relating to the order of maintenance of wife children and parents) of the Code of Criminal Procedure, 1973 and the provisions of any law for the time being in force in respect of a suit or proceeding for maintenance.
- Provisions  
not to be  
derogatory  
to certain  
laws.
21. (1) The State Government may, subject to the condition of previous publication in the Official Gazette make rules for the purpose of carrying into effect the provisions of this Act.
- Power to  
make rules.
- (2) Without prejudice to the generality of the foregoing powers, such rules may provide for—
- (a) regulating and prescribing the procedure to be followed for applications and the conduct of proceedings under this Act;
- (b) regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given including but not limited to affidavits,
- (c) the manner in which frivolous or vexatious claims may be dismissed at a preliminary stage on the basis of the affidavits and other documentary evidence,
- (d) the discovery of documents and other evidence and public records;
- (e) the manner and method of payment of maintenance awarded under this Act;
- (f) the costs of any proceedings under this Act; and
- (g) the manner in which, the purposes for which and conditions subject to which, institutions, organisations and other persons may be a approved for providing assistance to the Tribunal.



- (3) Every rule made under this section by the State Government shall be laid, as soon as may be after it is made, before the State Legislative Assembly, while it is in session, for a total period of fourteen days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, the Assembly agrees in making any modifications in the rule or the Assembly agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

### STATEMENT OF OBJECTS AND REASONS

In our society the maintenance of aged parents has been a matter of great concern and of personal obligation arising from the existence of the relationship and quite independent of the possession of any property, ancestral or acquired. Our ancient seers held this obligation on the higher pedestal by declaring that "the aged mother and father, the chaste wife and infant child must be maintained even by doing a hundred misdeeds." Recently the fathers of our Constitution, through Directive Principles of the State policy, contained in article 38 and 41, together with other provisions, have wisely laid down the main objective, namely, the building of a welfare State and egalitarian social order by making effective provisions for securing public assistance in case of old age, sickness and disablement and in other cases of undeserved want.

In the developing age of science and technology our old virtues are giving way to materialistic and separatistic tendencies. Younger generation is neglecting their wives, children and aged and infirm parents, who are now being left beggared and destituted on the scarpheap of society and thereby driven to a life of vagrancy immorality and crime for their subsistence. Thus it has become necessary to provide compassionate and speedy remedy to ameliorate the difficulties being faced by the neglected wives, children, aged and infirm parents.

This Bill seeks to achieve the aforesaid objectives.

Gandhinagar,  
Dated 3<sup>rd</sup> March, 2008.

MAFATBHAI PUROHIT  
M.L.A.

### FINANCIAL MEMORANDUM

Clause 12 and 13 of the Bill seek to provide for the appointment of the Maintenance Officer and tribunal for the Maintenance of Parents and Dependants. Since the existing Government machinery is intended to be utilized for the implementation of the proposed provision, there will be no additional expenditure on the establishment. Tentatively speaking, the provisions contained in the Bill when enacted will involve approximately extra recurring expenditure out of the State exchequer to the tune of rupees 5 lakhs per annum.

Gandhinagar,  
Dated 3<sup>rd</sup> March, 2008.

MAFATBHAI PUROHIT  
M.L.A.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Sub-clause (2) of Clause (1) empowers the State Government to appoint, by notification in the Official Gazette, the date on which the Act shall come into force.

Clause 12 of the Bill empowers the state Government to appoint Maintenance Officer and to determine the terms and Conditions for their appointments.

Clause 13 of the Bill empowers the State Government to establish in every district at such places and as many Tribunals for Maintenance of Parents and Dependents as the State Government may specify by notification.

Clause 21 empowers the State Government to make rules in respect of the purposes mentioned therein and for the purpose of carrying out all or any of the provisions of the Bill. These rules shall as soon as may after they are made be laid before the Legislative Assembly. This delegation is essential and normal in character.

Gandhinagar,  
Dated 3<sup>rd</sup> March, 2008.

**MAFATBHAI PUROHIT**  
**M.L.A.**

Gandhinagar.  
Dated the 14<sup>th</sup> March, 2008.

**D. M. PATEL,**  
**Secretary,**  
**Gujarat Legislative Assembly.**





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# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLIX]

FRIDAY, MARCH 14, 2008/ PHALGUNA 24, 1929.

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

### PART V

#### Bills introduced in the Gujarat Legislative Assembly

The following Bill Which was introduced on the 14th March, 2008 by Shri Pradipsinh Jadeja M.L.A. is Published Under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

**GUJARAT BILL No. 10 OF 2008.**

#### **THE GUJARAT PREVENTION OF ACCIDENTS ON HIGHWAYS BILL 2008**

#### ***A BILL***

*to make provisions for prevention of accidents on highways and for matters connected therewith*

It is hereby enacted in the Fifty-Ninth Year of the Republic of India, as follows:-

1. (1) This Act may be called the Gujarat Prevention of Accidents on Highways Act, 2008. Short title and commencement.

(2) It shall come into force at once.

**Definitions** 2. In this Act, unless the context otherwise requires,-

(a) "Special Authority" means the Authority constituted under section-3 of this Act.

(b) "Highway" means, State Highways, National Highways and such other roads as may be classified as such by the State Government.

(c) "Traffic Police" means a section of the Gujarat Police looking after the regulations of Highways Traffic.

(d) The expressions which are used, but not defined shall have the same meaning has being given in the Motor vehicles Act, 1988. **Lix of 198**

**Establishment of Special Authority.**

3. (1) The State Government shall by notification in the Official gazette establish a special Authority to Supervise and work for the prevention of accidents on highways in the State of Gujarat.

(2) The Special Authority shall consist of the Chairman and such other members not exceeding 14 as may be appointed by the State Government.

Provided that atleast two members of the Gujarat Legislative Assembly shall be appointed on the Special Authority.

**Tenure of the members of the Special Authority**

4. (1) The Chairman and members of the Special Authority shall be appointed for period of 3 years from the date of appointment.

Provided that the members of Gujarat Legislative Assembly shall continue to be members for full term of the Special Authority eventhough they cease to be members of the Assembly.

**Payment of Allowances to the Chairman and other members of the Special Authority**

5. The Chairman and members of the Special Authority shall not be entitled to receive any salary but they shall be entitled to receive the allowances for performing their duties as may be determined by Government.

**Staff under the special Authority**

6. (1) The staff under the Special Authority shall consist of--

- (a) Secretary, who shall be appointed by the Government and;
- (b) Such other employees as the Special Authority may, with the previous approval of the State Government, appoint from time to time.

(2) The Salary of the Secretary and other employees shall be such as may be prescribed.

(3) The other terms and conditions of the services of the Secretary and other employees shall be such as may be prescribed.

7. The function of the Special Authority shall be;

Functions of  
the special  
Authority.

(a) to supervise the road traffic and to suggest the measures for avoiding accidents on the highways.

(b) to keep record of accidents and to find out the common causes of the accidents and to suggest the remedial measures.

(c) to suggest changes in the existing highway traffic rules.

(d) The State highway police shall implement the suggestions made by the special Authority and shall also carry out the instructions issued by it and will provide necessary assistance to the Authority.

8. (1) The Government may frame the rules by notification in the Official Gazette to carry out the objects of the Act. Rules.

(2) The rules made under this Section shall be made before the Legislature of the State at the sessions thereof next following and shall be liable to be modified or rescinded by a resolution passed by the Legislature and such rules after notifying in the Official gazette, be deemed to have been modified or rescinded accordingly.

#### STATEMENT OF OBJECTS AND REASONS

As present the road Accident on the Highways of Gujarat are increasing at an alarming rate. Every day several accidents occur on the Highways resulting in loss of lives of the people and also making many people invalid by severe and permanent injuries;

The exiting machinery of highway Police which looks after the highway traffic is not sufficient to check the highway accident.

Therefore, a separate Special Authority is proposed to be set up to suggest measures and issue directions to the Highway traffic Police with a view to control and minimise accidents taking places on highways of Gujarat.

Dated : 3<sup>rd</sup> March, 2008.  
Gandhinagar.

PRADIPSINH JADEJA,  
M. L.A.

#### FINANCIAL MEMORANDUM

Section 5 and 6 of the bill provides for giving salaries and allowances to the Chairman, Members and Staff of the special Authority which may involve expenditure from the consolidated Fund of the State of about Rs. 15 lacs per years.

Dated : 3<sup>rd</sup> March, 2008.  
Gandhinagar.

PRADIPSINH JADEJA,  
M. L.A.



**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill provides for delegation of Legislative powers in the following respects :-

Clause 3.--This clause empowers the State Government to appoint by notification in the *Official Gazette*, a Special Authority.

Clause 5.--This clause empowers the State Government to determine the allowances to the chairman and Members of the special Authority.

Clause 6.--This clause empowers the State Government to approve the strength and other conditions of services of the Secretary and employees under the Special Authority.

Clause 8.--This clause empowers the State Government to frame the rules to carry out the objects of the Act.

The delegation of Legislative powers are of normal character.

Dated : 3<sup>rd</sup> March, 2008.  
Gandhinagar.

**PRADIPSINH JADEJA,**  
M. L. A.

Gandhinagar.  
Dated the 14<sup>th</sup> March, 2008.

**D. M. PATEL,**  
Secretary,  
Gujarat Legislative Assembly.



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# The Gujarat Government Gazette

## EXTRAORDINARY

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FRIDAY, MARCH 14, 2008/ PHALGUNA 24, 1929.

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### PART V

#### Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

#### THE BOMBAY SHOPS AND ESTABLISHMENTS (GUJARAT AMENDMENT) BILL, 2008.

#### GUJARAT BILL NO. 11 OF 2008.

#### A BILL

*further to amend the Bombay Shops and Establishments Act, 1948 in its application to the State of Gujarat.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Bombay Shops and Establishments (Gujarat Amendment) Act, 2008.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title, extent  
and  
commencement.



Bom. LXXIX of  
1948.

2. In the Bombay Shops and Establishments Act, 1948, in its application to the State of Gujarat, in section 7, in sub-section (5), for the words "three years", the words "five years" shall be substituted.

Amendment of  
section 7 of Bom.  
LXXIX of 1948.

**STATEMENT OF OBJECTS AND REASONS**

As per the existing provisions of sub-section (5) of section 7 of the Bombay Shops and Establishments Act, 1948, the registration certificate granted under sub-section (2) is renewable from time to time for a period not exceeding three years at a time. Now it is proposed to increase the said period of three years to five years for avoiding hardship to the concerned that may cause due to a shorter period of renewal.

This Bill seeks to amend the Bombay Shops and Establishments Act, 1948 to achieve the aforesaid object.

**VAJUBHAI VALA,**

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative power in the following respects, namely:-

*Clause 1.* - Sub-clause (3) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 14<sup>th</sup> March, 2008.

**VAJUBHAI VALA.**

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**

Gandhinagar,  
Dated the 14<sup>th</sup> March, 2008.

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.



# **The Gujarat Government Gazette**

## **EXTRAORDINARY**

### **PUBLISHED BY AUTHORITY**

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#### **PART - V**

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules:-

#### **THE GUJARAT TAX ON ENTRY OF SPECIFIED GOODS INTO LOCAL AREAS (AMENDMENT) BILL, 2008.**

**GUJARAT BILL NO. 12 OF 2008.**

#### **A BILL**

*further to amend the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Tax on Entry of Specified Goods into Local Areas (Amendment) Act, 2008.

Short title and commencement.

(2) It shall come into force on the 1<sup>st</sup> April, 2008.

Amendment of  
section 2 of  
Guj. 22 of  
2001.

2. In the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001 (hereinafter referred to as "the principal Act"), in section 2, in clause (k), after the words "the Schedule", the words, brackets, figures and letter "and such other goods as the State Government may, by notification in the *Official Gazette*, specify under sub-section (1A) of section 3" shall be added.

Guj. 22 of  
2001.

Amendment of  
section 3 of  
Guj. 22 of  
2001.

3. In the principal Act, in section 3, after sub-section (1), the following sub-section shall be inserted, namely:-

"(1A) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest to redress an inequitable situation or for sufficient and reasonable cause for removing discrimination between goods entering into the local areas from any place outside the State but not being a place outside the territory of the Union of India, for consumption, use or sale therein and goods manufactured or produced in the State, specify by notification in the *Official Gazette*, such other goods as the specified goods."

Substitution of  
Schedule to  
Guj. 22 of  
2001.

4. In the principal Act, for the existing Schedule, the following Schedule shall be substituted, namely:-

#### "SCHEDULE

(See sections 2(k) and 3)

Sr. No.	Specified Goods.	Maximum rate of Tax.
1	2	3
1.	Motor vehicles including chassis of motor vehicles and the body which is built on chassis of motor vehicles.	Twenty per cent.
2.	Cement.	Twenty per cent.
3.	Marbles or Granite (raw or polished).	Twenty per cent.
4.	Kota stones.	Twenty per cent.
5.	Naphtha.	Twenty per cent.
6.	Light Diesel Oil.	Twenty per cent.
7.	High Speed Diesel Oil.	Twenty-five per cent.
8.	Yarn of all types except Nylon Yarn, Polyester Viscose Yarn and Cotton Yarn.	Twenty per cent.
9.	Such other goods as may be specified by the State Government by notification in the <i>Official Gazette</i> .	Twenty per cent."

**STATEMENT OF OBJECTS AND REASONS**

The Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001 provides for levy of tax on certain goods entering into local areas of the State from any place outside the State. The purpose of the Act is primarily not to levy additional tax but to provide level playing field between the goods entering into the local areas from any place outside the State but not being a place outside the territory of the Union of India, for consumption, use or sale therein and goods manufactured or produced in the State. To ensure this, tax credit of entry tax paid is made available under section 11 of the Gujarat Value Added Tax Act, 2003.

The entry tax rates are having direct linkage with the Value Added Tax rates on the same goods, hence change in the Value Added Tax rates necessitates change in the Act. To obviate the need to amend the Act consequent to change in Value Added Tax rates, it is considered necessary to revise the maximum rates of tax on specified goods as mentioned in the Schedule.

Further, changes in trade patterns requires addition of new goods in the list of specified goods to address an inequitable situation or for removing discrimination between goods entering into the local areas from any place outside the State but not being a place outside the territory of the Union of India, for consumption, use or sale therein and goods manufactured or produced in the State. It is, therefore, felt necessary to empower the State Government to add new goods as specified goods in the Schedule.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

**VAJUBHAI VALA,**



**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects:-

**Clauses 2,3 and 4. -** Amended clause (k) of section 2 of the Act, sub-section (1A) proposed to be inserted in section 3 of the said Act and new entry No. 9 inserted in the Schedule by these clauses empowers the State Government to specify by notification in the *Official Gazette*, such other goods as specified goods, subject to such conditions and when the State Government considers it so to do in the public interest to redress an inequitable situation; or for sufficient and reasonable cause for removing discrimination between goods entering into the local areas from any place outside the State but not being a place outside the territory of the Union of India, for consumption, use or sale therein and goods manufactured or produced in the State.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 14<sup>th</sup> March, 2008.

**VAJUBHAI VALA.**

By order and in the name of the Governor of Gujarat,

Gandhinagar,  
Dated the 14<sup>th</sup> March, 2007.

**H. D. VYAS,**  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.



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# The Gujarat Government Gazette

## EXTRAORDINARY

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#### PART - V

#### Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

#### THE GUJARAT MUNICIPAL FINANCE BOARD (AMENDMENT) BILL, 2008.

GUJARAT BILL NO. 13 OF 2008.

#### A BILL

*further to amend the Gujarat Municipal Finance Board Act, 1979.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Municipal Finance Board (Amendment) Act, 2008. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.
2. In the Gujarat Municipal Finance Board Act, 1979, in section 4, Amendment of section 4 of Guj. 12 of 1979.
  - (1) in sub-section (1), -
  - (1) in clause (ii), the words "out of whom at least one shall be a woman" shall be added at the end;
  - (2) in clause (iii), the words "out of whom at least one shall be a woman" shall be added at the end."

Guj. 12 of 1979.

**STATEMENT OF OBJECTS AND REASONS**

The State Government have adopted the policy on women's empowerment providing at least one-third representation to the women in the boards and corporations owned and controlled by the State Government and other institutions related to governance and decision making, so that women may be brought into main stream of development of the State. Government have already incorporated legal provisions for ensuring one-third representation of women in the urban local bodies. Section 4 of the Gujarat Municipal Finance Board Act, 1979 is, therefore, proposed to be amended so as to empower the State Government to give representation to women on the Gujarat Municipal Finance Board.

This Bill seeks to amend the said Act to achieve the aforesaid object.

**NITIN PATEL,**

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative power in the following respects:-

*Clause 1.* - Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 14<sup>th</sup> March, 2008.

**NITIN PATEL.**

By order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 15<sup>th</sup> March, 2008.

**H. D. VYAS,**

Secretary to the Government of Gujarat,  
Legislative and Parliamentary  
Affairs Department.



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## PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

### THE GUJARAT VALUE ADDED TAX (AMENDMENT) BILL, 2008.

GUJARAT BILL NO. 14 OF 2008.

#### A BILL

*further to amend the Gujarat Value Added Tax Act, 2003.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Value Added Tax (Amendment) Act, 2008. Short title and commencement.

(2) It shall come into force on the 1<sup>st</sup> April, 2008.

V-Ex.-14-1

14-1

**Amendment of section 2 of Guj. 1 of 2005.** 2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as "the principal Act"), in section 2, - **Guj. 1 of 2005.**

(1) before clause (1), the following clause shall be inserted, namely :-

"(1A) "additional tax" means the additional tax leviable and payable under sub-section (1A) of section 7 or sub-section (6) of section 9;"

(2) after clause (36), the following clause shall be inserted, namely :-

"(37) "zero rated sale" means a sale of goods by a registered dealer to another registered dealer on which the rate of tax leviable shall be zero but tax credit on the purchase related to that sale is admissible."

**Insertion of new section 5A in Guj. 1 of 2005.** 3. In the principal Act, after section 5, the following section shall be inserted, namely:-

**Zero rated sale.**

"5A. The following sale shall be zero rated sale for the purpose of this Act and tax credit on the purchase related to such sale shall be allowed subject to such conditions as may be prescribed:-

- (1) Sale of goods to the Developer or Co-developer of Special Economic Zone as defined in the Gujarat Special Economic Zone Act, 2004; or **Guj. 11 of 2004.**
- (2) sale of goods to a unit carrying on its business in the processing area or in the demarcated area of Special Economic Zone and approved as such by the Approval Committee as defined in the Gujarat Special Economic Zone Act, 2004; **Guj. 11 of 2004.**

Provided that the sale of goods specified in Schedule III shall not be zero rated sale:

Provided further that the sale of certain goods or sale of goods by any dealer or class of dealers as may be specified by the State Government by notification in the *Official Gazette*, shall not be zero rated sale."

**Amendment of section 7 of Guj. 1 of 2005.** 4. In the principal Act, in section 7, after sub-section (1), the following sub-section shall be inserted, namely:-

"(1A) Subject to the provisions of this Act, there shall be further levied an additional tax on the turnover of sales of goods liable to be taxed under sub-section (1), at the rate of -



- (i) two and half paise in the rupee on the goods specified in the entries at serial numbers 25, 46B, 48A, 49A, 49B, 51A and 87 in Schedule II, and
- (ii) one paise in the rupee on the goods specified in the entries in Schedule II other than the entries mentioned in clause (i) above :

Provided that the additional tax shall not be levied on the sale of, -

74 of 1956.

- (a) goods declared to be of special importance in section 14 of the Central Sales Tax Act, 1956;
- (b) goods specified in entry at serial number 13 in Schedule II; and
- (c) such goods as the State Government may, by notification in the *Official Gazette*, specify.”

5. In the principal Act, in section 9, after sub-section (4), the following sub-sections shall be inserted, namely:-

Amendment  
of section 9  
of Guj. 1 of  
2005.

“(5) Where a dealer liable to pay tax under this Act purchases taxable goods sale of which is zero rated under section 5A and the goods so purchased by him are –

- (i) consigned or dispatched for branch transfer or to his agent outside the State,
- (ii) used as raw materials in the manufacture or in the packing of goods so dispatched outside the State in the course of branch transfer or consignment or to his agent outside the State,
- (iii) used as fuel for the manufacture of goods,
- (iv) used as raw materials or capital goods in manufacture of goods specified in Schedule I or goods exempt from the whole of the tax by a notification under sub-section (2) of section 5 or in the packing of goods so manufactured,
- (v) used as fuel or capital goods in generation of electrical energy including captive power,
- (vi) not connected with his business,
- (vii) used as fuel in motor vehicles,
- (viii) used as capital goods in transfer of property in goods (whether as goods or in some other form) involved in execution of works contract,
- (ix) used for transferring the right to use for any purpose (whether or not for a specified period), for cash, deferred payment or other valuable considerations, or
- (x) used for any other purpose as may be specified by the State Government by notification in the *Official Gazette*,

then such dealer shall be liable to pay purchase tax on the turnover of such purchases at the rate set out against each of such goods specified in Schedule II.

(6) Subject to the provisions of this Act, there shall be further levied an additional tax on the turnover of purchases of goods liable to be taxed under sub-section (1), (2), (3), (4) or (5), at the rate of -

- (i) two and half paise in the rupee on the goods specified in the entries at serial numbers 25, 46B, 48A, 49A, 49B, 51A and 87 in Schedule II, and
- (ii) one paise in the rupee on the goods specified in the entries in Schedule II other than the entries mentioned in clause (i) above :

Provided that the additional tax shall not be levied on the purchase of, -

- (a) goods declared to be of special importance under section 14 of the Central Sales Tax Act, 1956; 74 of 1956.
- (b) goods specified in entry at serial number 13 in Schedule II; and
- (c) such goods as the State Government may, by notification in the *Official Gazette*, specify."

Amendment of  
section 11 of Guj.  
1 of 2005.

6. In the principal Act, in section 11, -

- (1) in sub-section (1), in clause (a), in sub-clause (ii), for the words, brackets and figures "sub-section (1) or (2)", the words, brackets and figures "sub-section (1), (2), (5) or (6)" shall be substituted;
- (2) in sub-section (3), in clause (b) and in the proviso to clause (b), for the words "turnover of purchases", the words "taxable turnover of purchases within the State" shall be substituted;
- (3) in sub-section (5), the existing paragraph below clause (p) shall be numbered as paragraph (I) and after paragraph (I) as so numbered, the following paragraphs shall be inserted, namely:-

"(II) Notwithstanding anything contained in clause (d) or (dd) in this sub-section and subject to such conditions and in such manner as may be prescribed, a registered dealer shall be allowed to claim tax credit for the taxable goods held in stock on the date of registration which are purchased after 1<sup>st</sup> April, 2008 and during the period of one year ending on the date of registration.

(III) Notwithstanding anything contained in clause (nn) in this sub-section and subject to such conditions and in such manner as may be prescribed, a registered dealer, whose permission to pay *lump sum* tax under section 14, -

- (a) is no longer valid on account of total turnover exceeding rupees fifty lakhs, or
- (b) is cancelled on request by such dealer,

and becomes liable to pay tax under section 7, shall be allowed to claim tax credit for the taxable goods held in stock which are purchased after 1<sup>st</sup> April, 2008 and during the period of one year ending on the date of liability to pay tax under section 7.”.

7. In the principal Act, in section 14,-

Amendment of  
section 14 of  
Guj. 1 of 2005.

(a) in sub-section (1), in clause (a), in the proviso, -

(1) in clause (ii), -

- (i) before the words “purchases the goods”, the words “has purchased in the previous year or” shall be inserted;
- (ii) before the words “imports”, the words “has imported in the previous year or” shall be inserted;

(2) in clause (iii), before the words “receives the goods”, the words “has received in the previous year or” shall be inserted;

(3) in clause (iv), before the words “engaged in the”, the words “was engaged in the previous year or” shall be inserted;

(4) in clause (v), before the words “effects the sales”, the words “has effected in the previous year or” shall be inserted;

(b) in sub-section (4), for the words, brackets and figures “purchase tax leviable under sub-sections (1) and (3)”, the words, brackets and figures “tax leviable under sub-sections (1), (3) and (6)” shall be substituted.

8. In the principal Act, in section 14B, in sub-section (5), for the words, brackets and figures “sub-sections (1), (3) and (4) of section 9”, the words, brackets and figures “sub-sections (1), (3), (4) and (6) of section 9” shall be substituted.

Amendment of  
section 14B of  
Guj. 1 of 2005.

9. In the principal Act, in section 59B, -

Amendment of  
section 59B of  
Guj. 1 of 2005.

(1) in sub-section (3), in clauses (a) and (b), for the words “equal to two paise in a rupee”, the words “at the rate as may be specified by the State Government by notification in the *Official Gazette*” shall be substituted;

(2) sub-section (15) shall be deleted.

10. In the principal Act, in Schedule I, in the entry at serial No. 23, the sub-entry (ii) shall be deleted.

Amendment of  
Schedule I to  
Guj. 1 of 2005.

Amendment  
of Schedule  
II to Guj. 1  
of 2005.

11. In the principal Act, in Schedule II, -

(1) for the entry at serial No. 58A, the following entry shall be substituted, namely :-

1	2	3
"58A	Machinery (including spare parts, accessories and components thereof) used in manufacture of goods excluding domestic appliances (whether fitted or not with electric motor) such as grinder, mixer, grinder-cum-mixer, juicer, blender, water purifier, flour mill, toaster, oven, etc.	Four paise in the rupee";

(2) in the entry at serial No. 87, for the word and figure "Schedule I", the words and figures "Schedule I or Schedule III" shall be substituted.

### STATEMENT OF OBJECTS AND REASONS

To accelerate the process of development of human resources and infrastructural development, additional financial resources are required in the exchequer. Budget speech, made on the 25<sup>th</sup> February, 2008, proposes to impose an additional tax in addition to the existing tax levied under the Gujarat Value Added Tax Act, 2003. Moreover, various representations were received by the Government from traders and businessmen to remove the difficulties and hardships caused in the implementation of the said Act. The State Government has, therefore, considered it necessary to amend the said Act so as to give effect to the budget speech of the Finance Minister and to reduce hardships of traders and businessmen.

Clause 3 of the Bill seeks to insert a new section 5A so as to provide for zero rated sales of goods to the Developer or Co-developer of Special Economic Zone and to a unit carrying on its business in the processing area or in the demarcated area of Special Economic Zone. Clause 5 of the Bill seeks to insert a new sub-section (5) in section 9 so as to provide for levy of purchase tax on the basis of the use of the goods so purchased. The tax credit of tax paid on the purchase of goods, sale of which is zero rated, is made admissible by proposed amendment in section 11.

Clause 4 of the Bill seeks to insert a new sub-section (1A) in section 7 so as to provide for levy of additional tax on sales of goods. Similarly, clause 5 of the Bill seeks to insert a new sub-section (6) in section 9 to provide for levy of additional tax on purchases of goods.

Sub-clause (2) of clause 6 of the Bill seeks to clarify the words "turnover of purchases". The amended clause now clearly states that reduction of tax credit at the rate of four per cent. will be made on the taxable turnover of purchases within the State.

Sub-clause (3) of clause 6 seeks to allow tax credit for the purchases made prior to the date of registration and of the goods purchased during the period when the permission granted under section 14 has remained valid to avoid double tax burden on the dealers.

Clause 7 seeks to amend proviso under sub-section (1)(a) of section 14. Now, the permission to pay lump sum tax shall not be available to the dealer who has, in the previous year, -

- (i) purchased goods in the course of inter-state trade or commerce or imported goods from a place out of the territory of India;
- (ii) received the goods from his branch situated outside the State or from consigning agent outside the State;
- (iii) engaged in the activity of the manufacture;
- (iv) effected sales or purchases through the commission agent.

Sub-clause (1) of clause 9 seeks to amend section 59B. The State Government is empowered to decide the rate of tax deducted at source.

Sub-clause (2) of clause 9 of the Bill seeks to delete sub-section (15) of section 59 B so as to allow tax deduction at source where payment is to be made by the State Government on specified sale of works contract.

Clause 10 of the Bill seeks to delete sub-entry (ii) of entry 23 of Schedule I. The firewood of any kind still remains tax free under the said entry.

Sub-clause (1) of clause 11 of the Bill seeks to substitute the entry at serial No. 58A in Schedule II so as to remove the confusion that which type of machinery is covered under the said entry.

Entry 87 in Schedule II is residuary entry and it covers all the goods other than those specified in Schedule I and the entries 1 to 86 mentioned in Schedule II. The separate rates of tax for certain goods are specifically mentioned for the goods mentioned in Schedule III. It is, therefore, necessary, for removal of doubt, to make mention of Schedule III also in entry at serial No.87 in Schedule II. Sub-clause (2) of clause 11 of the Bill provides accordingly.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

**VAJUBHAI VALA,**



**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects :-

**Clause 3.** - (i) Section 5A proposed to be inserted by this clause empowers the State Government to prescribe by rules, the conditions subject to which, a tax credit on the purchase related to Zero rated sale shall be allowed ;

(ii) the second proviso to section 5A empowers the State Government to specify by notification in the *Official Gazette*, sale of certain goods or sale of goods by any dealer or class of dealers shall not be zero rated sale.

**Clause 4.** - Clause (c) of proviso to sub-section (1A) proposed to be inserted in section 7 by this clause empowers the State Government to specify by notification in the *Official Gazette*, such goods on which additional tax on sale of goods shall not be levied.

**Clause 5.-** (i) Clause (x) of sub-section (5) proposed to be inserted in section 9 by this clause empowers the State Government to specify by notification in the *Official Gazette*, any other purpose for which the goods or capital goods so purchased by the dealer are used then such dealer shall be liable to pay purchase tax on the turnover of such purchases;

(ii) clause (c) of proviso to sub-section (6) proposed to be inserted in section 9 by this clause empowers the State Government to specify, by notification in the *Official Gazette*, such goods on which additional tax on the purchase of goods shall not be levied.

**Clause 6.-** (i) Para (ii) proposed to be inserted in sub-section (5) of section 11 by this clause empowers the State Government to prescribe by rules, the conditions subject to which and the manner in which a registered dealer shall be allowed to claim tax credit for the taxable goods held in stock on the date of

registration which are purchased after 1st April, 2008 and during the period of one year ending on the date of registration;

(ii) para (iii) in sub-section (5) proposed to be inserted in sub-section (5) of section 11 by this clause empowers the State Government to prescribe by rules, the conditions subject to which and the manner in which a registered dealer, whose permission to pay *lump sum* tax under section 14 of the said Act, is not remained valid for the reasons stated therein, shall be allowed to claim tax credit for the taxable goods held in stock which are purchased after 1<sup>st</sup> April, 2008 and during the period of one year ending on the date of liability to pay tax under section 7.

**Clause 9.-** Sub-section (3) of section 59B proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the rate at which the tax shall be deducted from specified sale price at the time of payment by a person responsible for paying specified sale price to a contractor or sub-contractor.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 14<sup>th</sup> March, 2008.

**VAJUBHAI VALA.**

By order and in the name of the Governor of Gujarat,

Gandhinagar.

Dated the 15<sup>th</sup> March, 2008.

**H. D. VYAS,**  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.



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### PART - V

#### Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

#### THE GUJARAT STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS (AMENDMENT) BILL, 2008.

#### GUJARAT BILL NO. 15 OF 2008.

#### A BILL

*further to amend the Gujarat State Tax on Professions, Trades, Callings  
and Employments Act, 1976.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2008. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of  
long title of  
President's Act  
No. 11 of 1976.

2. In the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (hereinafter referred to as "the principal Act"), in the long title, for the word "State", the words "Panchayats, Municipalities, Municipal Corporations and the State" shall be substituted.

President's Act No.  
11 of 1976.

Amendment of  
section 2 of  
President's Act  
No. 11 of 1976.

3. In the principal Act, in section 2, -

- (1) after clause (a), the following clause shall be inserted, namely :-

"(aa) "Designated Authority" means, -

- (i) a Municipal Corporation of a City constituted under section 5 of the Bombay Provincial Municipal Corporations Act, 1949;

Bom. LIX of 1949.

- (ii) a Municipality as defined in clause (14) of section 2 of the Gujarat Municipalities Act, 1963;

Guj. 34 of 1964.

- (iii) (a) a village panchayat constituted under section 9 of the Gujarat Panchayats Act, 1993;

Guj. 18 of 1993.

(b) a taluka panchayat constituted under section 10 of the said Act; and

(c) a district panchayat constituted under section 11 of the said Act;

or, as the case may be, the State Government, and includes, where such Municipal Corporation, Municipality or, as the case may be, Panchayat has been superseded or dissolved, a person or persons appointed to exercise the powers or to perform the functions of such Municipal Corporation, Municipality or Panchayat, designated as such, subject to such conditions and for such class of persons mentioned in column 2 of Schedule I for such area, by the State Government by notification in the *Official Gazette* for the purposes of levy and collection of tax under this Act;";

- (2) in clause (d), the following explanation shall be added, namely :-

"*Explanation.*- Every branch of a firm, company, corporation or other corporate body, any society, club or association shall be deemed to be a person and a separate assessee for the purpose of levy of tax under this Act;".

Amendment of  
section 3 of  
President's Act  
No. 11 of 1976.

4. In the principal Act, in section 3,-

(1) in sub-section (1), for the words "for the benefit of the State", the words "by the Designated Authorities for the benefit of the Panchayats, Municipalities, Municipal Corporations or, as the case may be, the State" shall be substituted;

(2) for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) Every person engaged in any Profession, Trade, Calling or Employment and falling under one or the other of the classes mentioned in column 2 of Schedule I shall be liable to pay the tax to the Designated Authority at such rate fixed by it but not exceeding the amount mentioned against the class of such person in the said Schedule:

Provided that the rates of tax for the class of persons mentioned in entry 1 of the said Schedule shall be fixed by the State Government by notification in the *Official Gazette* :

Provided further that the tax so payable in respect of any one person shall not exceed two thousand and five hundred rupees in any year:

Provided also that the State Government may, by notification in the *Official Gazette*, specify the minimum rate of tax for each of such class mentioned in column 2 of Schedule I, below which tax shall not be levied by the Designated Authority and different limits may be fixed for different Designated Authorities and the minimum rate so notified shall be levied till the Designated Authority fixes some other rate under the provisions of this Act:

Provided also that the State Government may, by notification in the *Official Gazette*, specify the class of persons other than those mentioned in entries 1 to 9 in Schedule I, to whom entry 10 in that Schedule shall apply:

Provided also that the tax shall not be levied from the persons mentioned below Schedule I ";

(3) in sub-section (3), for the words " State Government", the words "Designated Authority" shall be substituted;

(4) after sub-section (4), the following sub-section shall be inserted, namely :-

"(5) Where a person falling under any of the entries in Schedule I is liable to pay the tax to more than one Designated Authority, he shall pay the tax to the Designated Authority where the tax liability is highest:

Provided that where a person produces a certificate to the effect that the tax has been paid by him to the Designated Authority where the



liability of tax is highest, the tax shall not be levied by any other Designated Authority.”.

Amendment of  
section 5 of  
President's Act  
No. 11 of 1976.

5. In the principal Act, in section 5, in sub-section (5), for the words “five rupees”, the words “ten rupees” shall be substituted.

Amendment of  
section 6 of  
President's Act  
No. 11 of 1976.

6. In the principal Act, in section 6, in sub-section (3), for the words “five rupees”, the words “ten rupees” shall be substituted.

Amendment of  
section 11 of  
President's Act  
No. 11 of 1976.

7. In the principal Act, in section 11, in sub-section (2),-

(1) in clause (i), for the words “the Additional Commissioners of Profession Tax and the Joint Commissioners of Profession Tax”, the words “and the Additional Commissioner of Profession Tax” shall be substituted;

(2) in clause (iii), the words “the Assistant Commissioners of Profession Tax and” shall be deleted;

(3) clause (iv) shall be deleted.

Amendment of  
section 12 of  
President's Act  
No. 11 of 1976.

8. In the principal Act, in section 12,-

(1) in sub-section (1), -

(i) for clause (a), the following clause shall be substituted, namely:-

“(a) For carrying out the purposes of this Act, the State Government may, for each Designated Authority, appoint an officer to be the Commissioner of Profession Tax.”;

(ii) after clause (a); the following clause shall be inserted, namely:-

“(aa) For carrying out the purposes of this Act, the Designated Authority may appoint such other officers as an Additional Commissioner of Profession Tax and such number of Deputy Commissioners of Profession Tax, Profession Tax Officers and other officers and persons not below such ranks, as the State Government may specify in this regards, with such designation.”;

(iii) in clause (b),-

(a) for the words “paragraph (ii) or (iii) of clause (a)”, the words, “clause (a) or (aa)” shall be substituted;

(b) for the words "State Government may, by notification in the *Official Gazette*", the words "Designated Authority may, by order" shall be substituted;

(2) sub-sections (3),(4),(4A),(5), and (6) shall be deleted.

9. In the principal Act, in section 13, in sub-section (1), in clauses (b) and (c), for the words "the Joint Commissioner", the words "the Additional Commissioner" shall be substituted.

Amendment of  
section 13 of  
President's Act  
No. 11 of 1976.

10. In the principal Act, in section 14,-

Amendment of  
section 14 of  
President's Act  
No. 11 of 1976.

(1) in sub-section (1), in clauses (a) and (b), for the words "the Joint Commissioner", the words "the Additional Commissioner" shall be substituted;

(2) in sub-section (3), for the words "the Joint Commissioner", the words "the Additional Commissioner" shall be substituted.

11. In the principal Act, in section 16, in sub-section (2), for the words "five rupees", the words "ten rupees" shall be substituted.

Amendment of  
section 16 of  
President's Act  
No. 11 of 1976.

12. In the principal Act, in section 18,-

Amendment of  
section 18 of  
President's Act  
No. 11 of 1976.

(1) for the words "Any authority", the words "The Commissioner or any officer authorised by the Commissioner" shall be substituted;

(2) in the proviso, for the words "the said authority", the words "the Commissioner or any officer authorised by the Commissioner" shall be substituted.

13. In the principal Act, in section 26, -

Amendment of  
section 26 of  
President's Act  
No. 11 of 1976.

(1) in sub-section (1), -

(i) for the words "The State Government may, by notification in the *Official Gazette*", the words "The Designated Authority may by passing a resolution in this behalf and by publishing the same in the *Official Gazette*" shall be substituted;

(ii) for clause (a), the following clause shall be substituted, namely :-

"(a) its power of appointments of officers and persons other than an Additional Commissioner under clause (aa) of sub-section (1) of section 12, and";

(iii) for the words "in the notification", the words "in the resolution" shall be substituted;

(2) in sub-section (2), the words "or to the officer authorised by the Collecting Agent under sub-section (4) of section 12" shall be deleted.

Substitution of  
section 26A of  
President's Act  
No. 11 of 1976.

14. In the principal Act, for section 26A, the following section shall be substituted, namely :-

Power to  
exempt.

"26A. Subject to such conditions as it may impose, the Designated Authority may, after obtaining prior approval of the State Government, if it considers it necessary so to do in public interest, by resolution to be published in the *Official Gazette*, exempt any class of person from payment of whole or any part of the tax payable under the provisions of this Act."

Amendment of  
section 27 of  
President's Act  
No. 11 of 1976.

15. In the principal Act, in section 27,-

- (1) in sub-section (2), clause (f) shall be deleted;
- (2) sub-section (3) and the proviso thereunder shall be deleted;
- (3) in sub-section (4), after the words "All rules made", the words "by the State Government" shall be inserted;
- (4) after sub-section (5), the following sub-section shall be inserted, namely :-

"(6) For carrying out the purposes of this Act, the Designated Authority may make such rules not inconsistent with the provisions of this Act under its relevant law mentioned in clause (aa) of section 2 of this Act."

Substitution of  
section 28 of  
President's Act  
No. 11 of 1976.

16. In the principal Act, for section 28, the following section shall be substituted, namely:-

Amendment of  
certain  
enactments.

"28. The enactments specified in column 2 of Schedule II are hereby amended in the manner and to the extent, specified in column 3 thereof."

Substitution of  
section 29 of  
President's Act  
No. 11 of 1976.

17. In the principal Act, for section 29, the following section shall be substituted, namely:-

Grants to  
Designated  
Authorities.

"29. Out of the proceeds of the tax and penalties, interest and fees recovered before the commencement of the Gujarat Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2008 (hereinafter referred to as "the said Act") or recoverable after such commencement as a result of previous operation of the Act under clause (a) of section 31, there shall, under the appropriation duly made by law,

Guj. .... of 2008.

be paid annually to such local authorities as were levying a tax on professions, trades, callings and employments before the commencement of the said Act."

18. In the principal Act, after section 29, the following new sections shall be added, namely:-

Power of State Government to give directions.

"30. The State Government shall have the powers to issue directions to the Designated Authorities from time to time as may be required for the compliance of the provisions of this Act and the rules made thereunder and the Designated Authority shall, notwithstanding any provision in the relevant law, be bound to comply with such directions.

Insertion of new sections 30 and 31 in President's Act No. 11 of 1976.

Savings.

31. Nothing in the amendments made by the Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2008 (hereinafter referred to as "the said Act") shall affect or be deemed to have affected, -

Guj. ... of 2008.

- (a) the previous operation of any provision of the Act or anything done or suffered under the said provisions before the commencement of the said Act;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said provisions before the commencement of the said Act;
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the provisions of the Act before the commencement of the said Act; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Act had not been passed."

19. In the principal Act, for Schedule I and Schedule II, the following Schedules shall be substituted, namely:-

Substitution of Schedule I and Schedule II to President's Act No. 11 of 1976.

#### "SCHEDULE I

(See section 3 and section 5(3))

*Rates of tax on Professions, Trades, Callings and Employments.*

Sr. No.	Class of Persons	Maximum Rate of Tax (in Rs.)
1.	2.	3.
1.	(A) Salary and Wage earners of the State Government, Central Government, Panchayats, Public Sector Undertakings of the State and the Central Government, and Grant-in-aids institutions, whose monthly salaries or wages are - (i) less than Rs.3,000/-	Zero

[illegible]



Sr. No.	Class of Persons	Maximum Rate of Tax (in Rs.)
1.	2.	3.
	Computer Education or Training, or Online Information and Data Base Service through Computer Network.	2500/- per annum
	(n) Owners of Driving Schools.	2500/- per annum
	(o) Owners of Marriage Halls and Party Plots.	2500/- per annum
	(p) <i>Angadia</i> or Courier Service Providers.	2500/- per annum
	(q) Owners of Health Club and Recreation Clubs.	2500/- per annum
3.	(i) Members of Association recognised under the Forward Contract (Regulation) Act, 1952 (74 of 1952).	2500/- per annum
	(ii) Members of Stock Exchanges recognised under the Securities Contracts (Regulation) Act, 1956 (42 of 1956).	2500/- per annum
	(iii) Owners of Oil Pumps and Service Stations and where any oil pumps and service stations are leased, the lessees thereof.	2500/- per annum
	(iv) Licenced foreign liquor vendors and employers of residential hotels and theatres as defined in the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948).	2500/- per annum
	(v) Public Limited or Private Limited Companies registered under the Companies Act, 1956 (1 of 1956) and engaged in any profession, trade or calling.	2500/- per annum
	(vi) Individuals or Institutions conducting Chit Funds.	2500/- per annum
	(vii) Banking companies as defined in the Banking Regulation Act, 1949 (10 of 1949).	2500/- per annum
	(viii) Co-operative Societies registered or deemed to be registered under the Gujarat Co-operative Societies Act, 1961 (Guj. X of 1962)-	2500/- per annum
	(a) State Level Societies and District Level Societies engaged in any profession, trade or calling.	2500/- per annum
	(b) Co-operative Sugar Factories and Co-operative Spinning Mills.	2500/- per annum
	(ix) Estate Agents or Estate Brokers or Building Contractors.	2500/- per annum
	(x) Owners of Video Parlours or Video Libraries or both and where any Video Parlours or Video Libraries or both are leased, the lessees thereof.	2500/- per annum
4.	Firms registered under the Indian Partnership Act, 1932 (IX of 1932) which are engaged in any professions, trades or callings.	2500/- per annum
5.	Occupiers of factories as defined in the Factories Act, 1948 (63 of 1948).	2500/- per annum
6.	Employers of establishments as defined in the Bombay Shops and Establishments Act, 1948 (Bom. XXXIX of 1948), where on an average employees employed in the establishment during a year are more than five per day.	2500/- per annum
7.	Dealers as defined in the Gujarat Value Added Tax Act,	

Sr. No.	Class of Persons	Maximum Rate of Tax (in Rs.)
1.	2.	3.
	2003 (Guj. 1 of 2005) whose annual gross turnover of all sales or of all purchases is- (i) not more than Rs.2,50,000/- (ii) more than Rs.2,50,000/- but not more than Rs.5,00,000/- (iii) more than Rs.5,00,000/- but not more than Rs.10,00,000/- (iv) more than Rs. 10,00,000/- <i>Explanation.-</i> For the purpose of this entry, the term, 'year' shall mean the year as defined in clause (36) of section 2 of the Gujarat Value Added Tax Act, 2003 (Guj. 1 of 2005).	Zero 2500/- per annum 2500/- per annum 2500/- per annum
8.	Holders of permits for transport vehicle granted under the Motor Vehicles Act, 1988 (59 of 1988) which are used or adapted to be used for hire or reward, where any such person hold permits for more than two transport vehicles buses, taxis, trucks or three wheelers goods vehicles. <i>Explanation.-</i> Persons residing together as members of one family and holding separate permits shall be one person for the purposes of this entry.	2500/- per annum
9.	Money lender licensed under the Bombay Money-Lenders Act, 1946 (Bom. XXXI of 1947).	2500/- per annum
10.	Persons other than those mentioned in any of the preceding entries, who are engaged in any professions, trades, callings or employments and in respect of whom a notification is issued under the fourth proviso to sub-section (2) of section 3.	2500/- per annum

**Exemptions :-** The following persons shall be exempted from the payment of tax under any of the entries 2 to 10 of this Schedule :-

- (1) Companies in respect of which orders for winding up are passed under the Companies Act, 1956 (1 of 1956) from the date of such orders.
- (2) Co-operative Societies under liquidation from the date of the commencement of liquidation proceedings.
- (3) A primary co-operative society, the members of which are workers who are carrying on the activity of the society by their own labour.

## SCHEDULE II

(See section 28)

Sr. No.	Enactments	Amendments
1.	2.	3.
1.	The Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949).	In section 127, in sub-section (2), -  (1) after clause (a), the following clause shall be inserted, namely :-

		<p>“(b) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (President’s Act No.11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;”;</p> <p>(2) in clause (f), the words “a tax on professions, trades, callings and employments or” shall be deleted.</p>
2.	The Gujarat Municipalities Act, 1963 (Guj. 34 of 1964).	<p>In section 99, in sub-section (1), -</p> <p>(1) after clause (xiv), the following clause shall be inserted, namely :-</p> <p>“(xiv-a) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (President’s Act No.11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;”;</p> <p>(2) in clause (xv), the words “a tax on professions, trades, callings and employments or” shall be deleted.”.</p>
3.	The Gujarat Panchayats Act, 1993 (Guj. 18 of 1993).	<p>1. In section 200, -</p> <p>(1) in sub-section (1), -</p> <p>(a) after clause (ix), the following clause shall be inserted, namely :-</p> <p>“(ix-a) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (President’s Act No.11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;”;</p> <p>(b) in clause (x), the words “or tax on professions, trades, callings and employments” shall be deleted;</p> <p>(2) after sub-section (5), the</p>

President's Act No.  
11 of 1976.

President's Act No.  
11 of 1976.

following sub-section shall be inserted, namely :-

“(5A) Notwithstanding anything contained in sub-section (1), where a tax on professions, trades, callings and employments has been imposed by any panchayat under the provisions of this Act in the area within the limits of a village panchayat, it shall not be lawful for any other panchayat, so long as the tax is being so imposed, to levy such tax within such limits.”.

2. In section 206, in sub-section (2), -

(1) clause (b) shall be renumbered as sub-clause (i) of that clause, and in sub-clause (i) as so renumbered, after the words “such tax or fee”, the brackets, words, figures and letters “(other than tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976, read with clause (ix-a) of sub-section (1) of section 200)” shall be inserted;

(2) after sub-clause (i), as so renumbered, the following sub-clause shall be inserted, namely :-

“(ii) Total amount of gross collection of tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 read with clause (ix-a) of sub-section (1) of section 200, in any financial year in any area within the jurisdiction of a village panchayat shall not form part of the taluka fund, but shall be assigned to the concerned village panchayat.”.

3. In section 210, -

(1) clause (b) shall be renumbered as sub-clause (i) of that clause, and in sub-clause (i) as so renumbered, after the words “such tax or fee”, the brackets, words, figures and letters “(other than

President's Act No.  
11 of 1976.

tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 read with clause (ix-a) of sub-section (1) of section 200" shall be inserted;

(2) after sub-clause (i), as so renumbered, the following sub-clause shall be inserted, namely :-

President's Act No.  
11 of 1976.

"(ii) total amount of gross collection of tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 read with clause (ix-a) of sub-section (1) of section 200, in any financial year in any area within the jurisdiction of a village panchayat shall not form part of the district fund, but shall be assigned to the concerned village panchayat."



### STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of the Gujarat State Tax on Professions, Trade, Callings and Employments Act, 1976 tax is levied and collected from various persons engaged in Trade, Professions, Callings or Employments. The certain local authorities were appointed as collecting agents and were authorised to collect tax with effect from 1<sup>st</sup> October, 2006. However, they had to deposit the tax first in the Consolidated Fund of the State and thereafter amount collected by local authorities was given back by the State Government as collection charges. This system is found time consuming. Therefore, it is considered necessary to amend the said Act in such a way that it allows certain local authority to levy, collect and retain the tax with them without depositing the same in the Consolidated Fund of the State. By this amendment, it is proposed to empower the Panchayats, Municipalities and Municipal Corporations to levy, collect and appropriate the Professional Tax on certain categories of professions and employees to augment their financial resources.

*Clause 2* of the Bill seeks to amend long title of the Act. Until now the tax was levied and collected by the State Government for the benefit of the State. Now, it is intended that the tax shall be levied and collected by the State Government or, as the case may be, the Panchayats, Municipalities or Municipal Corporations for their benefit. Hence, the long title of the said Act is proposed to be amended accordingly.

*Sub-clause (1) of clause 3* of the Bill seeks to add definition of the Designated Authority. As per the proposed definition of "designated authorities" the State Government will be able to empower local government bodies such as Panchayats, Municipalities and Municipal Corporations to levy and collect the tax.

*Sub-clause (2) of clause 3* of the Bill seeks to explain the definition of the "person" for the purpose of levy of tax. It is intended that every branch of a firm, company, corporation or other corporate body, any society, club or association should be deemed to be a separate person for the purpose of assessment and levy of tax. To achieve this object an explanation is proposed to be inserted in the definition of the person.

*Clause 4* of the Bill seeks to amend section 3 to empower the Designated Authority to levy and collect the tax, and decide the rates thereof.

The Bill proposes to provide for the maximum rate of tax to be levied by a Designated Authority in the Schedule I. The State Government will have power to fix the rate of tax for sub-entries (A)

and (B) of entry 1 of Schedule I and also specify the minimum rate of tax for each of such class mentioned in column 2 of Schedule I. This will empower the Designated Authorities to fix the rate of tax within the limits provided. However, till the time a Designated Authority revises the rate of tax as provided in the limits, the minimum rate so prescribed by the State Government shall remain the operative rate.

It is also provided that where a person is liable to pay tax to more than one Designated Authority, he shall pay the tax where the tax liability is highest.

*Clause 5* of the Bill seeks to amend section 5 of the Act dealing with penalty.

*Clause 6* of the Bill seeks to amend section 6 of the Act. The Bill proposes for enhancement of penalty from Rs. 5/- to Rs. 10/- per day in case of default in filing of return.

*Clauses 7, 8, 9 and 10* of the Bill seek to amend sections 11, 12, 13 and 14 of the Act, whereby the authorities appointed by the State Government or as the case may be Designated Authority shall exercise the powers under sections 7, 7A, 11, 13 and 14. It is proposed that, Commissioners for Designated Authority shall be appointed by the State Government and Additional Commissioner, Deputy Commissioners and Profession Tax Officers and other Officers and persons shall be appointed by the Designated Authority. The posts of Joint Commissioners and Assistant Commissioners are removed.

*Clause 11* of the Bill seeks to amend section 16 to enhance the limit of penalty from Rs. 5 to Rs. 10.

*Clause 12* of the Bill seeks to amend section 18 and enables an officer to carry out search and inspection.

*Clause 13* of the Bill seeks to amend section 26 dealing with procedure of appointment of officers.

*Clause 14* of the Bill seeks to amend section 26A. The Designated Authorities are proposed to be given power of exemption with prior approval of the State Government.

*Clause 15* of the Bill seeks to amend section 27. A new subsection (6) of section 27 is proposed to be inserted whereby the Designated Authority may make rules for carrying out the purposes of this Act not inconsistent with the provisions of the Act under their relevant statute.

*Clause 16* of the Bill seeks to amend section 28. Prior to commencement of the Act i.e. before the 1<sup>st</sup> April 1976, certain local authorities were empowered to collect the Profession Tax. On account of the enactment of the Act the powers to levy and collect the tax were

withdrawn from these local authorities. Now it is proposed again to empower the same local authorities to levy and collect the Professional Tax. Therefore, the power is proposed to be restored so as to enable them to levy and collect the tax as per the provisions of this Act. Clause 16 provides for substitution of section 28 and Schedule II accordingly.

*Clause 17* of the Bill seeks to substitute section 29 to provide for payment of grant to the Designated Authorities of the tax recovered or recoverable due to previous operation of the Act before the proposed amendment.

*Clause 18* of the Bill seeks to insert a new section 30. This clause seeks to empower the State Government to issue direction to the Designated Authorities and the Designated Authorities shall be bound to comply with such direction. This new section is proposed to be added to issue directions to remove the difficulties that may arise in implementing the new scheme of levy of tax by Designated Authority through the said Act as amended and for development of homogeneous and uniform process through out the State. This clause also seeks to insert the saving clause.

This Bill seeks to amend the Gujarat State Tax on Professions, Trade, Callings and Employments Act, 1976 to achieve the aforesaid objects.

**VAJUBHAI VALA,**



**FINANCIAL MEMORANDUM**

Sub-section (1) of section 12 proposed to be amended by clause 8 of the Bill empowers the State Government to appoint an officer to be the Commissioner of Profession Tax for each Designated Authority. The existing officers working in the State Government or the Designated Authority in the regular establishment are to be used for the purpose. No new or additional expenditure is to be incurred from the Consolidated Fund of the State if clauses (a) and (aa) of sub-section (1) of section 12 are amended and brought into force.

Clause (aa) in sub-section (1) proposed to be inserted in section 12 empowers the Designated Authority to appoint such other officers as an Additional Commissioner of Profession Tax, Deputy Commissioners of Profession Tax, Profession Tax Officers and other Officers and persons for carrying out the purposes of the Act. These powers are proposed to be vested with the Municipal Corporations, Municipalities and Panchayats or, as the case may be, the State Government. Officers from regular establishment will be used by the Government, where as Designated Authorities will use their own staff and expenditure for that will be borne by them.

No additional expenditure to be incurred on this account from the Consolidated Fund of the State.

**VAJUBHAI VALA,**

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects:-

**Clause 1.-** Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

**Clause 3.-** Clause (aa) proposed to be inserted in section 2 empowers the State Government by notification in the *Official Gazette*, to notify the Designated Authority for the purposes of levy and collection of tax for such class of persons mentioned in column 2 of Schedule I, for such area and subject to such conditions as may be specified..

**Clause 4.-** (i) Sub-section (2) of section 3 proposed to be substituted by sub-clause (2) of this clause empowers the Designated Authority to fix the rate of tax not exceeding the amount mentioned against the class of such person in column 3 of the said Schedule I;

(ii) the first proviso to sub-section (2) empowers the State Government by notification in the *Official Gazette*, to fix the rate of tax for the class of persons mentioned in entry 1 of the said Schedule I;

(iii) the third proviso to sub-section (2) empowers the State Government to specify by notification in the *Official Gazette*, the minimum rate of tax for such class mentioned in column 2 of Schedule I and different limits for different Designated Authority;

(iv) the fourth proviso to sub-section (2) empowers the State Government by notification in the *Official Gazette*, to specify the class of persons other than those mentioned in entries 1 to 9 in Schedule I to whom entry 10 in that Schedule shall apply.

**Clause 8.-** (i) Clause (a) of sub-section (1) of section 12 proposed to be substituted by sub-clause (1) of this clause empowers the State Government to appoint an officer to be the Commissioner of Profession Tax for each Designated Authority;

(ii) clause (aa) of sub-section (1) of section 12 proposed to be inserted by sub-clause (1) of this clause empowers the Designated Authority to appoint the Additional Commissioner of Profession Tax, Deputy Commissioners of Profession Tax, Profession Tax Officers and such other officers and persons with such designations as the Designated Authority deems fit subject to the designations as may be specified by the State Government;

(iii) clause (b) of sub-section (1) of section 12 proposed to be amended by sub-clause (1) of this clause empowers the Designated Authority by order to specify the jurisdiction within which the officers



appointed by it, shall exercise such powers and perform such duties conferred or imposed upon him by or under the Act.

**Clause 13.-** Sub-section (1) of section 26 proposed to be amended by sub-clause (1) of this clause empowers the State Government by notification in the *Official Gazette* and the Designated Authority by resolution publishing in the *Official Gazette* delegate its power to the Commissioner to appoint the Additional Commissioner of Profession Tax, Deputy Commissioners of Profession Tax, Profession Tax Officers and such other officers and persons for carrying out the purposes of the Act.

**Clause 14.-** Section 26A proposed to be substituted by this clause empowers the Designated Authority to exempt, any class of persons from payment of whole or any part of the tax payable under the provisions of the Act after obtaining the prior approval of the State Government.

**Clause 15.-** Sub-section (6) proposed to be inserted in section 27 by sub-clause (4) of this clause empowers the Designated Authority to prescribe rules not inconsistent with the provisions of the relevant law.

**Clause 18.-** Section 30 proposed to be inserted by this clause empowers the State Government to issue directions to the Designated Authority as may be required for the compliance of the provisions of the Act and the rules made there under.

The delegation of legislative powers as aforesaid is necessary and of is a normal character.

Dated the 14<sup>th</sup> March, 2008.

**VAJUBHAI VALA.**

By order and in the name of the Governor of Gujarat.

Gandhinagar,

Dated the 15th March, 2008.

**H. D. VYAS,**

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs  
Department.



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# The Gujarat Government Gazette

## EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation

#### PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

#### THE GUJARAT DISTRICT PLANNING COMMITTEES BILL, 2008.

GUJARAT BILL NO. 16 OF 2008.

#### A BILL

*to provide for the constitution of the District Planning Committees at the district level for consolidation of the plans prepared by the Panchayats and the Municipalities in the district and preparation of draft development plan for the district as a whole.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat District Planning Committees Act, 2008.

Short title, extent and commencement.

(2) It extends to the whole of the State of Gujarat except the areas to which the provisions of the Bombay Provincial Municipal Corporations Act, 1949 apply.

Bom. LIX of 1949.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

**Definitions.** 2. In this Act, unless the context otherwise requires, —

- (a) "Committee" means a District Planning Committee constituted under sub-section (1) of section 3;
- (b) "District Collector" includes an Additional District Collector, or any other officer appointed by the State Government to discharge all or any of the functions of the District Collector under this Act;
- (c) "District Panchayat" means a District Panchayat as defined in clause (7) of section 2 of the Gujarat Panchayats Act, 1993. Guj. 18 of 1993.
- (d) "Municipality" means a municipality as defined in clause (14) of section 2 of the Gujarat Municipalities Act, 1963; Guj. 34 of 1964.
- (e) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (f) "prescribed" means prescribed by rules;
- (g) "rural area" means an area within a Taluka.

**Explanation.** — "Taluka" means a taluka as defined in clause (25) of section 2 of the Gujarat Panchayats Act, 1993; Guj. 18 of 1993.

- (h) "urban area" means an area within a Municipality;

**Constitution of  
District Planning  
Committee.**

3. (1) The State Government shall, by notification in the *Official Gazette*, constitute a District Planning Committee in each district consisting of such number of persons not less than thirty and not more than forty as it may determine.

(2) The District Planning Committee shall consist of following members, namely :-

- (i) the Chairperson of the committee to be nominated by the State Government;



- (ii) the President of the District Panchayat, who shall be the Vice-Chairperson;
- (iii) the District Collector, who shall be the Co-Vice-Chairperson;
- (iv) the District Development Officer;
- (v) the District Planning Officer, who shall be the Member-Secretary of the Committee;
- (vi) a person or persons, as determined by the State Government, having special knowledge in the fields of economics, planning, finance, engineering or administration;
- (vii) (a) such number of members as determined by the State Government, to be elected by and from amongst the elected members of the District Panchayat; and  
(b) such number of members as determined by the State Government, to be elected by and from amongst the elected members of the Municipalities within the District:

Provided that not less than four-fifths of the total number of the members of the Committee shall be elected by and from amongst the elected members of the District Panchayat and of the Municipalities in the District in proportion to the ratio between the population of the rural areas and of the urban areas in the District.

(3) (i) The members of the House of the People and the members of the Gujarat Legislative Assembly elected from any constituency in the District or a part thereof shall be permanent invitees to the District Planning Committee;

(ii) such officer or officers of the State Government or of any statutory Board, Corporation or Authority having knowledge in the field of economics, planning, engineering, finance or administration, as decided by the State Government, shall be the permanent invitees to the District Planning Committee.

**Election.**

4. (1) The District Collector shall co-ordinate and supervise all works in connection with the election of members to the Committee in the manner as may be prescribed.
- (2) The District Collector shall appoint a Returning Officer and as many Assistant Returning Officers as may be necessary for conducting the election of members to the Committee.
- (3) The powers and functions of the Returning Officer and the Assistant Returning Officers shall be such as may be prescribed.
- (4) Where any dispute arises regarding any election held under this Act, any person entitled to vote at such election may, within thirty days after the date of the declaration of the results of such election, file a petition, calling in question such election, before the Election Commissioner of the State having jurisdiction, and the decision of the Election Commissioner shall be final and shall not be called in question in any court.
- (5) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no civil court of law shall have jurisdiction to entertain any petition calling in question the validity of any election held under this Act.

**Term of office and other conditions of members of Committee.**

5. (1) The term of office of the members of the Committee other than *ex-officio*, shall be five years.
- (2) A member of a Committee, who is a member of a District Panchayat, a Municipality, the House of the People, the Legislative Assembly of the State shall cease to be a member of the Committee if he ceases to be a member of the respective District Panchayat, Municipality, the House of the People or the Legislative Assembly of the State.
- (3) The other terms and conditions of the members of the Committee shall be such as may be prescribed.



6. (i) The Chairperson may at any time, resign his office by writing to the State Government and on such resignation being accepted the Chairperson shall be deemed to have vacated his office;

Resignation.

(ii) The Vice-Chairperson or a member of the Committee may, at any time, resign his office by writing to the Chairperson and, on such resignation being accepted, the Vice-Chairperson or, as the case may be, the member shall be deemed to have vacated his office.

7. Any vacancy occurring by reason of death, resignation or otherwise of an elected member of a Committee shall be filled by election of another member in the manner as may be prescribed.

Filling of casual vacancy in place of an elected member of Committee.

8. The State Government shall provide to the Committee such sum as it may think fit for the purpose of carrying out the functions by the Committee under this Act.

Grant to Committee.

9. (1) The Committee shall meet on such date, at such time and place as the Chairperson may think fit and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by rules:

Procedure, records to be regulated by Committee.

Provided that the Chairperson, when required by a notice in writing by at least one-third of the members of the Committee shall call a meeting within one month from the date of receipt of the notice.

(2) Minimum of ten members, shall form a quorum for a meeting of the Committee:

Provided that no quorum shall be necessary for an adjourned meeting.

(3) The Secretary of the Committee shall maintain records and the proceedings of the meetings of the Committee and shall take such actions as the Committee may decide.

**Powers and  
functions of  
Committee.**

**10.**

- (1) The Committee shall—
  - (a) consolidate the plans prepared by the Panchayats and the Municipalities in the district, and
  - (b) prepare a draft development plan for the district as a whole.
- (2) The Committee shall, in preparing the draft development plan under clause (b) of sub-section (1), —
  - (a) have regard to —
    - (i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
    - (ii) the extent and type of available resources, whether financial or otherwise;
  - (b) consult such institutions and organisations as the State Government may, by order, specify.
- (3) The State Government may, by order, assign to the Committee such other functions relating to district planning.
- (4) The State Government may constitute Sub-Committees as may be deemed necessary for carrying out the purposes of this Act in the manner as may be prescribed.
- (5) The Chairperson of a Committee shall forward the draft development plan, as recommended by such Committee, to the State Government in the manner as may be prescribed.

11. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters, which under any provision of this Act, are required to be prescribed or to be provided for by rules.
- (3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.
- (4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power of State Government to make rules.

12. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as appears it to be necessary or expedient for removing the difficulty :

Power to remove difficulties.

Provided that no order under sub-section (1) shall be made after the expiry of two years from the date of commencement of this Act.

- (2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

**STATEMENT OF OBJECTS AND REASONS**

It is provided in article 243ZD of Constitution of India that there shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the District and to prepare a draft development plan for the district as a whole.

In view of the said provision, the legislature of a State has to make provision with respect to, -

- (a) the composition of the District Planning Committee;
- (b) the manner in which the seats in such Committees shall be filled;
- (c) the functions relating to district planning which may be assigned to such Committees;
- (d) the manner in which the Chairpersons of such Committees shall be chosen;

It is, therefore, considered necessary to constitute the District Planning Committees and make other incidental provisions so as to implement the provisions contained in article 243ZD of the Constitution of India.

This Bill seeks to achieve the aforesaid object.

The following notes on clauses explain, in brief, the important provisions of the Bill :-

**Clause 1.-** This clause provides for short title, extent and commencement of the Act.

**Clause 2.-** This clause defines certain terms used in the Bill.

**Clause 3.-** This clause empowers the State Government to constitute, by notification in the *Official Gazette*, a District Planning Committee in each district;

*Clause 4.-* This clause provides for election of members of District Planning Committee. It also provides for appointment of Returning Officer and Assistant Returning Officers, their powers and functions.

*Clause 5.-* This clause provides for the term and other conditions of office of the member of Committee.

*Clause 6.-* This clause provides for resignation of the Chairperson, the Vice-Chairperson or a member of the Committee.

*Clause 7.-* This clause provides for occurrence of vacancy of member and filling of such vacancies.

*Clause 8.-* This clause provides for the grant by the State Government to the District Planning Committee.

*Clause 9.-* This clause provides for the regulations of procedure to be followed and the records to be maintained by the Secretary of the Committee.

*Clause 10.-* This clause provides for powers and functions of the Committee. It also provides for the powers of the State Government for constitution of Sub-Committees.

*Clause 11.-* This clause empowers the State Government to make rules for carrying out the purposes of the Act and particularly for matters under any of the provision of this Act.

*Clause 12.-* This clause empowers the State Government to remove difficulties arising in giving effect to the provisions of the Act, within two years from the commencement of the Act.

**SAURABH PATEL,**



**FINANCIAL MEMORANDUM**

*Clause 8* of this Bill provides that the State Government shall provide to the District Planning Committee such sum as it may think fit for the purpose of carrying out the functions of the Committee. At present it is not possible to ascertain the exact amount of grant to be made available to the Committee. This provision of the Bill, if enacted and brought into force would involve expenditure from the Consolidated Fund of the State.

**SAURABH PATEL,**

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects :-

**Clause 1.-** Sub-clause (3) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which this Act shall come into force.

**Clause 3.-** This clause empowers the State Government to constitute, by notification in the *Official Gazette*, a District Planning Committee in each district;

**Clause 4.-** (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which the District Collector shall co-ordinate and supervise all works in connection with the election of members to the Committee;

(ii) sub-clause (3) of this clause empowers the State Government to prescribe by rules, the powers and functions of the Returning Officer and Assistant Returning Officer.

**Clause 5.-** Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the other terms and conditions of the members of the District Planning Committee.

**Clause 7.-** This clause empowers the State Government to prescribe by rules, the manner in which any vacancy occurred shall be filled by election of another member.

**Clause 9.-** Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the date, time and place at which the Committee shall meet and the rules of procedure in regard to transaction of business at its meeting to be observed by the Committee.

**Clause 10.-** (i) Para (b) of sub-clause (2) of this clause empowers the State Government to specify, by order, the institutions and organisations to be consulted by a Committee for preparing draft development plan;

(ii) sub-clause (3) of this clause empowers the State Government to assign to the Committee, by order, such other functions relating to District planning, co-ordination and monitoring of different departments of the State Government;

(iii) sub-clause (4) of this clause empowers the State Government to prescribe by rules for the constitution of Sub-Committees;

(iv) sub-clause (5) of this clause empowers the State Government to prescribe by the rules, the manner in which the draft Development plan shall be forwarded to the State Government by the Chairperson of a Committee.

**Clause 11.-** This clause empowers the State Government to make rules generally for carrying out the purposes of this Act and particularly for matters required under any of the provision of this Act to be prescribed by rules.

**Clause 12.-** This clause empowers the State Government to remove difficulties arising in giving effect to the provisions of the Act within two years from the commencement of the Act.

The delegation of legislative powers as aforesaid is necessary and of a normal character.

Dated the 14<sup>th</sup> March, 2008.

**SAURABH PATEL,**

By order and in the name of the Governor of Gujarat,

Gandhinagar,  
Dated the 15th March, 2008.

**H. D. VYAS,**  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs  
Department.



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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation

#### PART - V

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules:-

**THE SARDAR SAROVAR NARMADA NIGAM LIMITED  
(CONFERMENT OF POWER TO REDEEM BONDS) BILL, 2008.**

**GUJARAT BILL NO. 17 OF 2008.**

#### *A BILL*

*to confer power on the Sardar Sarovar Narmada Nigam Limited to redeem,  
in the public interest, the Deep Discount Bonds issued by it.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India,  
as follows :-

1. This Act may be called the Sardar Sarovar Narmada Nigam Limited Short title.  
(Conferment of Power to Redeem Bonds) Act, 2008.

**Amendment of 2.** (1) Notwithstanding anything contained in the terms of prospectus dated the  
**financial** 29<sup>th</sup> September, 1993 issued by the Sardar Sarovar Narmada Nigam Limited being a  
**covenants** Government Company within the meaning of section 617 of the Companies Act,  
**and conditions of** 1956 (hereinafter referred to as "the Company") in respect of the Bonds, or in the  
**Bonds.** Trust Deed dated the 31<sup>st</sup> December, 1994 between the Company and the trustees, or  
 in any other document relating to Deep Discount Bonds or in condition No.7  
 appearing under the heading "financial covenants and conditions" specified on the  
 reverse side of the Bonds (hereinafter referred to as "the said financial covenants and  
 conditions"), the Government of Gujarat hereby amends, in the public interest, the  
 said financial covenants and conditions as follows, namely :-

1 of 1956.

In the said financial covenants and conditions, after condition No. 3 relating to redemption, the following condition shall be inserted and shall be deemed always to have been inserted with effect on and from the date of the allotment of the Bonds, namely :-

"3A. (a) Notwithstanding anything contained in condition No. 3 relating to redemption and in the terms of withdrawal of Bonds appearing under condition No. 9, each Bond having the face value of Rs. 1,11,000 issued at Rs. 3,600 shall be redeemed earlier on such date and with such deemed face value as the Company may determine by payment of the amount so determined :

Provided that the deemed face value shall be so determined as not to be less than such amount as may be arrived at by raising the deemed face value of Rs. 25,000 as on 11<sup>th</sup> January, 2005 at the rate of 18.92 per cent, for the period beginning from the said date of 11<sup>th</sup> January, 2005 till the date of redemption so determined.

(b) The Company shall publish the date and the deemed face value determined under clause (a) in the newspapers in English and Gujarati languages in the area having wide circulation."

(2) The new condition 3A inserted in the said financial covenants and conditions by sub-section (1) shall be deemed to have been incorporated in and to have formed part of each of such Bonds with effect on and from the date of its allotment i.e. the 11<sup>th</sup> January, 1994 (irrespective of whether the Bond is in possession of a Bond holder or not).

**Bar of**  
**jurisdiction of**  
**civil courts.**

3. No civil court shall have jurisdiction to entertain any question arising out of any provision of this Act and of the Deep Discount Bonds (as amended by this Act) issued by the Company and no injunction shall be granted by any civil court in respect of any action taken or to be taken in pursuance of any financial covenant or condition of the Bonds.

**STATEMENT OF OBJECTS AND REASONS**

The Sardar Sarovar Narmada Nigam Limited has issued Deep Discount Bonds in the year 1993 having a face value of Rs. 1,11,000 at a discounted price of Rs. 3,600 each with a maturity period of 20 years from the date of allotment i.e. 11<sup>th</sup> January, 1994 thereby collecting Rs. 257.09 crores for financing the Sardar Sarovar Project. The Bond holder has option to withdraw the money by surrendering the Bonds at the end of 7<sup>th</sup>, 11<sup>th</sup>, 15<sup>th</sup> and 20<sup>th</sup> year from the date of allotment with a deemed face value of Rs. 12,500, Rs. 25,000, Rs. 50,000 and Rs. 1,11,000 respectively.

The financial covenants and conditions of the Bonds do not give option to the Nigam to redeem the Bonds prematurely. The rate of interest payable on the Bonds comes to about nineteen per cent. Considering the present trend of declining rates of interest which has stabilized at 10.75 per cent, and the enormous liability of the Nigam to make payment of Rs. 7,445.26 crores at the end of 20<sup>th</sup> year when the Bonds mature, it is considered necessary, in the public interest, to provide in the financial covenants and conditions of the Bonds, an option to the Nigam to redeem the Bonds prematurely on a date to be determined by the Nigam so as to save about Rs. 4,616 crores. It is, therefore, considered necessary to amend the financial covenants and conditions of the Deep Discount Bonds so as to enable the Nigam to redeem the Bonds on a date determined by it.

This Bill is to amend the financial covenants and conditions of the Deep Discount Bonds to achieve the aforesaid object.

**NITIN PATEL,**



**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative power in the following respects :-

*Clause 2.-* New condition 3A sought to be inserted by sub-clause (1) of this clause in the financial covenants and conditions appearing on the reverse side of the Bond empowers the Nigam to determine the date of redemption by the Nigam and the deemed face value of the Bond on that date.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

**Dated the 15<sup>th</sup> March, 2008.**

**NITIN PATEL.**

By order and in the name of the Governor of Gujarat,

Gandhinagar,  
Dated the 15<sup>th</sup> March, 2008.

**H. D. VYAS,**  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.



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# The Gujarat Government Gazette

## EXTRAORDINARY

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#### PART - V.

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 19th March, 2008 by Shri Shankarbhai Chaudhary M.L.A. is Published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 18. OF 2008

#### THE GUJARAT NON-BIODEGRADABLE GARBAGE (CONTROL) BILL, 2008

##### A BILL

*to prevent throwing or depositing of non-biodegradable Garbage in public drains, roads and place open to public view in the State of Gujarat and for matters connected therewith or incidental thereto.*

It is hereby enacted in the Fifty-Ninth Year of the Republic of India as follows:

1. (1) This Act may be called the Gujarat Non-biodegradable Garbage (Control) Act, 2008 Short title, extent and commencement.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.
2. In this Act, unless the context otherwise requires :- Definition.
  - (a) "bio-degradable garbage" means the garbage or waste material capable of being destroyed by the action of living beings;

(b) "building" means any shop, out-house, hut, house, shed or stable whether used for the purpose of human habitation or otherwise and whether of masonry, bricks, wood, mud, thatch, metal or any other material whatever, and includes a wall and a well;

(c) "house gulley" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as or carrying a drain or affording access to the latrine, urinal, cesspool or other receptacle for filth or other polluted matter, by person employed in the cleaning thereof or in the removal of such matter therefrom,

(d) "local authority" means a Municipal Corporation, a Municipality, a Cantonment Board, a Housing Board, a Slum Clearance Board, an Urban Development Authority, a Notified Area Committee, a District Panchayat, a Taluka Panchayat or a Gram Panchayat constituted, under any law for the time being in force;

(e) "market" includes any place where person assemble for sale or purchase of meat, fish, fruits, vegetables, food or any other articles for use or consumption with or without the consent of the owner of such places notwithstanding that there may be no common regulation for the concourse of the buyer and the sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or by any other person;

(f) "non-biodegradable garbage" means the waste garbage of material which is non-bio-degradable and includes plastic polythene, nylon and other plastic goods such as P.V.C. propylene and polystyrene which are not capable of being destroyed by an action of living being and are more specifically included in the Scheduled to this act;

(g) "occupier" includes any person for the time being paying or liable to payment or any portion of rent of the building in respect of which the word is used, or compensation or premium on account of the occupation of such building and also a rent free tenant, but does not include a lodger, and the words occupy and occupation do not refer to the lodger;

(h) "owner" means the person who receives the rent for the use of the land or building or would be entitled to do so if they were let. it also includes-

(i) an agent or trustee who receives such rent on behalf of the owner;

(ii) a receiver, executor or administrator of or a manager appointed by any court of competent jurisdiction to have the charge, of or to exercise the right of the owner;

(iii) an agent or trustee who receives the rent of or is entrusted with or is concerned with any building devoted to religious or charitable purpose; and

(iv) a mortgage in possession;

(i) "place" means any land or building or part of building and includes the garden, ground and out-houses, if any, pertaining to a building or part of a building;

(j) "place open to public view" includes any private place or building, monument, fence or balcony visible to a person being in, or passing along, any public place;

29 of 1986.

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Public Analyst" means the person appointed or recognised to be the Government Analyst, in relation to any environmental laboratory established or recognised in the State, under the provisions of the Environment (Protection) Act, 1986;

(m) "Public place" means any place which is open to use and enjoyment of the public whether it is actually used or enjoyed by the public or not and includes a road, street, Market, house-gully or way, whether a throughfare or not, and landing place to which public are granted access or have a right to resort or over which they have a right to pass; and

(n) "State Government" means the Government of the State of Gujarat.

3. (1) No person, by himself or through another shall, knowingly or otherwise throw or cause to be thrown in any drain, ventilation shaft, pipe and fitting, connected with the private or public drainage works any non-biodegradable garbage or any biodegradable garbage in non-biodegradable bag or container likely to-

Prohibition to throw garbage in public drains and sewage.

(i) injure the drainage and sewage system;

(ii) interfere with the free flow of effect the treatment and disposal of drain and sewage contents; and

(iii) be dangerous or cause a nuisance or be prejudicial to public health.

(2) No person, shall, knowingly or otherwise, place or permit to be placed, except in accordance with such procedure and after complying with such safeguards as may be prescribed, any bio-degradable or non-biodegradable garbage in any public place or in a place open to public view, unless-

(a) the garbage is placed in garbage receptable; or

(b) the garbage is deposited in a location designated by a local authority having jurisdiction on an area for the disposal of the garbage.

4. It shall be the duty of the local authority or any officer authorised by it, to-

(a) place or provide place in proper and convenient situation public receptable, depots of places for temporary deposit or collection of Non-biodegradable garbage;

(b) provide separate dustbins for temporary deposit of non-biodegradable garbage other than those kept and maintained for deposit of biodegradable garbage;

(c) provide for the removal of contents of receptables, deposit and of the accumulation at all places provided or appointed by it under clause (a) of this section; and

(d) arrange for the recycling disposal of the non-biodegradable garbage collected under this Act.

Provision for Placement of receptable and places for deposit of non biodegradable garbage.

5. It shall be the duty of the owners and occupiers of all lands and buildings-

(a) to collect or to cause to be collected from their respective land and buildings, the non-biodegradable garbage and to deposit, or cause it to be deposited, in public receptables, deposite or places provided for temporary deposit or collection of the non-biodegradable garbage by the local authority in the area;

(b) To provide separate receptables or dustbins, other than those kept and maintained for deposit of biodegradable garbage, of the type and in the manner prescribed by the local authority of its officers for collection therein of all the non-biodegradable waste from such land and building and to keep such receptables dustbins in good condition and repair.

Duty of owners and occupiers to collect and deposit non biodegradable garbage etc.

Power of local authority for removal of non biodegradable garbage.

6. The local authority may, by notice in writing, require the owner or occupier or part-owner, or person, claiming to be the owner, or part owner of any land or building, which has become a place or unauthorised stocking or deposit of non-biodegradable, garbage and is likely to cause a nuisance remove or cause it to be removed the said garbage so stocked or collected; and if in its opinion, such stocking or collection of non-biodegradable waste is likely to injure the drainage or sewage system or is likely to be dangerous to life and health, it shall forthwith take such steps at the cost of such persons as it may think necessary.

Studies research and support programme.

7. The State Government may :-

(a) undertake studies to determine the composition of biodegradable or non-biodegradable garbage;

(b) establish measures to conduct or support research or programme to encourage source reduction, re-use and recycling of waste;

(c) conduct or support studies to determine the social and economic feasibility of household and other solid waste separation schemes, including studies of the type and amount of recyclable materials in solid wastes.

(d) encourage local authorities in the State of Gujarat to provide readily accessible solid waste collection depots for residents who are not provided with regular garbage pick up;

(e) undertake and encourage local authorities and other persons to implement policies to recycle waste materials; to promote energy conservation and to purchase products made from recyclable materials;

(f) conduct and support research on waste management and recycling including information on recyclables;

(g) conduct or support research on waste management and recycling, for use in educating the public, local authorities, institutions and industry; and

(h) impose requirements on manufacturers, distributors and other person who produce or handle commodities with respect to the type, size, packaging, labelling and composition of packing that may or must be used and with respect to the disposal of packaging including standards for material degradability and recyclability.

Penalties.

8. (1) Whoever is guilty of any act or omission in contravention of any of the provisions of this Act, or of any rules, notification or order made, issued or given under this Act, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to rupees five thousand, or with both.

(2) Whoever having been convicted of any offence under this Act is again convicted of an offence under this Act shall be punishable with double the penalty provided for the latter offence

(3) Whoever in any manner aids, abets or is accessory to the commission of an offence under this Act shall on conviction be punished with imprisonment prescribed for the offence.



9. (1) If The person committing any offence punishable under this Act is a company, every person, at the time of the commission of the offence, was incharge of and responsible to the company for the conduct of the business or guilty of the offence shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in sub-section (1) Where an offence under this Act has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on of the part of any Director, Manager, Secretary, or other officer of the Company, such Direction Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation*,—For the purposes of this Section-

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm means a partner in the firm.

10. All offences under this Act shall be tried in a Summary way by a Judicial Magistrate of the First Class and the provisions of Section 262 to 265 (both inclusive) of the Code of Criminal Procedure 1973, shall as far as may be, apply to such trials.

Offence to be tried summarily.

11. (1) Any offences punishable under this Act may, before the institution of the prosecution, be compounded by such officer as may be authorised by the State Government in this behalf on payment for credit to the State Government of such sum as such officer may specify.

Compounding of offences.

(2) Where any offence has been compounded under sub-section (1), no proceeding shall be taken against the offender, and the offender if in custody, shall be discharged.

12. The local authority shall carry out such directions as may be issued to it from time, by the State Government for the efficient administration of this Act.

Direction by State Government.

13. (1) Where it is expedient to do so, the State Government may, in the public interest and in consultation with the public Analyst, by notification in the *Official Gazette*, add to or omit from the Schedule any item of non-biodegradable waste and thereafter the Schedule shall be deemed to have been amended accordingly.

Power to amend Schedule.

(2) Every notification under Sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.

14. The State Government may, by notification published in the *Official Gazette*, direct that any power exercisable by it under Act (Not including the power to make rules under section 17) may also be exercised, in such cases as may be specified in the order, by such officer or authority as may be specified therein.

Power to delegate.

15. No suit, prosecution or other legal proceedings shall lie against the State Government or the local authority or any officers or other employees of the State Government or the local authority or any other person authorised by the State Government for anything which is in good faith done or intended to be done under this

Protection of action taken in good faith.

Other laws  
not affected.

Act or the rules made thereunder.

Power to  
make rules.

16. The provisions of this Act are in addition to, and not in derogation of the provisions of any other law for the time being in force.

17. (1) The State Government may subject to the condition of previous publication in the *Official Gazette* make rules for the purpose of carrying out the provisions of this Act.

(2) All rules made under this section shall be laid before the State Legislature for thirty days as soon as after they are made and shall be subject to such modifications or recessions as the State Government may make during the session in which they are so laid or the session immediately following.

(3) Any modifications or recission so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect accordingly.

Power to  
remove  
difficulties.

18. If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

#### SCHEDULE

See Section 2 (f)

#### NON BIODEGRADABLE GARBAGE

1. Polythylene

2. Nylone

3. P. V. C.

4. Poly-propylene

5. Poly-styrene.

## STATEMENT OF OBJECTS AND REASONS

At present, the use of Plastic goods is pervading for the industrial and packaging purposes at large in the State. This results in huge waste garbage or material which is non-biodegradable which is not capable of being destroyed by an action of living being. The cows, cattle and other animals, in search of eatables such plastic bags and chemicalised waste, which is very injurious even to the health of these animals. The animals eating those non-biodegradable garbage suffer from various diseases and ultimately it results into death of these innocent animals. Such non-biodegradable garbage is injurious and harmful to the environment, human being and the animal being also. Therefore, it is necessary to have effective control for the disposal of the non-biodegradable garbage in the State by Act of the State Legislature.

Hence, this Bill.

Gandhinagar.

Dated : 3<sup>rd</sup> March, 2008.

SHANKARBHAI CHAUDHARY

M.L.A.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The bill involves delegations of legislative powers in the following respects, namely :-

Clause 12. — This clause empowers the State Government to issue the directions to the local authorities from time to time for the efficient administration of this Act.

Clause 13. — This clause empowers the State Government to amend the Schedule by publishing a notification in the *Official Gazette*.

Clause 14.— This clause empowers the State Government to specify such officer or authority to exercisable by it under this Act (excluding the power to make rules).

Clause 17. — This clause empowers the State Government to make rules for the purposes of carrying out provisions of this Act.

Clause 18. — This clause empowers the State Government to do anything by an order anything not inconsistent with such provisions which appears to it to be necessary for the purpose of removing the difficulty, if any difficulty arises in giving effect to the provision of the Act.

The delegation of the Legislative powers as aforesaid is necessary and is of normal character.

Gandhinagar.

Dated : 3<sup>rd</sup> March, 2008.

SHANKARBHAI CHAUDHARY

M.L.A.

## FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for undertaking studies, research and support programme by the State Government in regard to the non-biodegradable garbages, This bill if enacted and brought into operation would not incur expenditure from the Consolidated Fund of the State, as it is presumed and expected that such studies, research and support programmes will be undertaken or conducted by the existing Government personnel and machineries and therefore no additional expenditure will be incurred from the Consolidated Fund of the State.

Dated : 3<sup>rd</sup> March, 2008.  
Gandhinagar.

SHANKARBHAI CHAUDHARY  
M.L.A.

Gandhinagar.  
Dated the 19th March, 2008.

D. M. PATEL,  
Secretary,  
Gujarat Legislative Assembly.



# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation

### PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 19th March, 2008 by Shri Shaileshbhai Parmar M.L.A. is Published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

**GUJARAT BILL NO. 19 OF 2008.**

### THE GUJARAT RESERVATION OF VACANCIES IN POSTS AND SERVICES (FOR SCHEDULED CASTES AND SCHEDULED TRIBES) BILL, 2008

#### A BILL

*to provide for adequate representation of Scheduled Castes and Scheduled Tribes in posts and services under the State.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 2008. Short title, extent and commencement.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.



**Definitions.** 2. In this Act, unless the context otherwise, requires,—

- (a) "Prescribed" means prescribed by rules made under this Act,
- (b) "recruitment year" means the financial year during which a recruitment is actually made.
- (c) "reservation" means reservation of vacancies in post and services for the Scheduled Castes and Scheduled Tribes.
- (d) "Scheduled Castes" shall have reference to the Scheduled Castes specified in the Constitution (Schedule Castes) Order, 1950 made under Article 341 of the Constitution of India and as amended from time to time.
- (e) "Scheduled Tribes" shall have reference to the Scheduled Tribes specified in the Constitution (Scheduled Tribes) Order, 1950 made under Article 342 of the Constitution of India and as amended from time to time.
- (f) "Select list" means the list of candidates arranged in order of precedence prepared according to the rules and orders issued by the State Government in that behalf and adopted by the competent authority or making appointment in respect of initial recruitment and promotions.
- (g) "State" means the Government of the State of Gujarat.

**Applicability** 3. This Act shall apply to,—

- (1) All appointments to the posts and services under the State except,—
  - (a) those meant for conducting or guiding or directing research;
  - (b) those classified as scientific posts;
  - (c) those filled up on the basis of any contract;
  - (d) ex-cadre posts;
  - (e) those which are filled up by transfer or deputation;
  - (f) such other posts the State Government may, from time to time by order specify.

Provided that all orders made under clause (f) shall, as soon as after they are made, be laid before the State Legislature for not less than thirty days which may be comprised in one or more sessions.

- (2) all appointments to the district level posts,
- (3) all appointments in the Panchayats, Boards and Corporation constituted by the State Government.

- (4) all appointments in institutions aided by the State Government.
- (5) all other appointments, which the State Government may specify from time to time.

4. (1) Except as otherwise provided in this Act, the vacancies reserved for the Scheduled Castes and the Scheduled Tribes shall not be filled up by candidates not belonging to the Scheduled Castes and Scheduled Tribes. **Reservation and the percentage thereof.**

(2) The reservation of vacancies in posts and services shall be at such percentage of the total number of vacancies as the State Government may, from time to time by order determine;

Provided that-

(a) in the case of initial recruitment the percentage so determined shall, in no case be less than the percentage of the persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of the State,

(b) in the case of initial recruitment the district level posts, the percentage so determined, shall, in no case be less than the percentage of the persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of that district and in no case be less than the percentage of persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of the State.

(c) save as otherwise provided in this Act, in the case of appointment by way of promotions the percentage of reservation shall be such as is laid down in paragraphs (a) and (b).

*Explanation.*— The expression "population" means the population as ascertained at the last census for which the relevant figures have been published.

5. (1) The State Government shall prescribe model roster indicating the number of vacancies to be reserved for the Scheduled Castes and Scheduled Tribes and the number of vacancies to be left unreserved. **Model Roster.**

(2) The appointing authorities shall maintain roster in the prescribed form.

(3) The roster shall be consulted for ascertaining the number of reserved vacancies only but the appointment shall be made in accordance with the order of precedence as shown in the select list.

6. If, in any recruitment year, the number of candidates other from Scheduled Castes or Scheduled Tribes is less than the number of vacancies reserved for them, the remaining vacancies may be filled up by general candidates after dereserving the vacancies in the prescribed manner, but the vacancies so dereserved shall be carried forward to the subsequent three years of recruitment. **Carry forward of reservation and dereservation.**

Relaxation  
and  
concessions.

7. For initial appointments for the candidates belonging to Scheduled Castes and Scheduled Tribes.-

(a) the upper age-limit prescribed for recruitment shall be relaxed by five years.

(b) fee prescribed for application for any post shall be one fourth of what it is for others.

(c) travelling allowance to attend competitive written examination and oral interview shall be paid at such rates as may be prescribed by the State Government.

(d) percentage of passing the competitive and departmental examinations shall be relaxed by 5 percent.

Member of  
initial  
recruitment.

8. (1) For recruitment through employment exchange the number of vacancies reserved for Scheduled Castes and Scheduled Tribes shall be specified in the requisition to be sent to the employment exchange against the total number of vacancies.

(2) For recruitment to be made through the Gujarat Public Service Commission or any Selection Board on the basis of competitive examination or interview the advertisement shall specify the number of vacancies reserved for Scheduled Castes and Scheduled Tribes against the total number of vacancies.

(3) The Scheduled Castes and Scheduled Tribes candidates shall be recruited to the extent of the reserved vacancies if they possess the minimum qualifications required for the posts or services.

(4) If the required number of Scheduled Castes and Scheduled Tribes candidates are not available for filling up the reserved vacancies, a fresh recruitment shall be made only from candidates belonging to the Schedules Castes or Scheduled Tribes, as the case may be, for filling up the remaining reserved vacancies.

(5) If after making such fresh recruitment candidates belonging to the Schedule Castes or Scheduled Tribes are still not available or if the number of such candidates is less than the number of reserved vacancies, the vacancies which remain unfilled shall be filled up by general candidates in accordance with the procedure laid down in section 6.

(6) For district level posts if the candidates belonging to Schedules Castes or Scheduled Tribes, as the case may be, are not available in the district employment exchange in sufficient number at the time of initial recruitment, the employment exchange of other district where there is large population of Schedules Castes or Scheduled Tribes, as the case may be, shall be consulted.

Promotion  
based on  
seniority  
cum-fitness.

9. (1) Where promotion is to be made on the basis of seniority subject to fitness, the Schedule Castes and Scheduled Tribes officers shall be promoted to the next higher post or grade against reserved vacancies provided they possess the minimum qualifications and experience required for such promotion.

(2) The number of reserved vacancies shall be determined on the basis of the reserved points shown in the roster maintained under Section 5.

10. Where promotion is to be made on the basis of selection and the element of direct recruitment does not exceed fifty percent the procedure for filling up of the reserved vacancies shall be such as may be prescribed and the number of reserved vacancies shall be determined on the basis of the reserved points shown in the roster maintained under Section 5. **Promotion based on selection.**

11. Where selection is to be made from different services the recruitment or appointing authority shall select Scheduled Castes and Scheduled Tribes candidates to the extent of reserved quota, provided such candidates satisfy the minimum conditions of suitability qualification and experience laid down in respect of the post concerned. **Selection from different services.**

12. (1) Every appointing authority shall furnish to the State Government annual report in the prescribed manner by the end of the month of June of the succeeding financial year and maintain such other records as may be prescribed. **Submission of annual report, maintenance of other records and inspection thereof.**

(2) Any officer authorised by the State Government in that behalf may inspect any record or documents and require the appointing authority to produce the roster and other records relating to appointments made by it and which are maintained in its office.

(3) It shall be the duty of the appointing authority to produce such records and documents, furnish such information and afford all such assistance and facilities as may be necessary for the aforesaid purpose.

13. In each department of the State Government an officer not below the rank of an Under Secretary authorised by the Secretary of the department in that behalf shall act as Liaison Officer in respect of the matter provided in this Act who shall be specially responsible for - **Nomination of Liaison Officer.**

(a) ensuring ; -oper implementation of the provisions of this Act and the rules made thereunder,

(b) ensuring compliance by the subordinate authorities.

(c) ensuring timely submission of returns,

(d) conducting annual inspections of rosters and such other record as may be prescribed,

(e) acting as Liaison Officer between the administrative department and the Social Welfare Department,

(f) ensuring necessary assistance to the Social Welfare Department in the investigation of complaints received from individuals or organisations belonging to Scheduled Castes and Scheduled Tribes.

14. (1) There shall be a Standing Committee consisting of the following members, namely :— **Constitution of Standing Committee.**

(a) The Minister for Social Welfare—Chairman.

(b) Three members of the Gujarat Legislative Assembly to be elected in such manner as may be determined by the Speaker of the Gujarat Legislative Assembly—Member.

(c) The Chief Secretary to Government—Member.



- (d) The Secretary to Government, Home Department—Member.  
 (e) The Chief Secretary to Government, Social Welfare Department  
 Member Secretary :

Provided that on issue of a proclamation under Article 356 of the Constitution of India the composition of the committee may be altered by the State Government to such extent as it may deem fit.

**Function of the standing committee.** 15. (1) The Committee shall meet at least thrice a year and the period the standing between any two meetings shall not be more than six months.  
 (2) The Committee shall perform the following functions, namely :—

(i) review of the implementation of the provisions of this Act and rules made thereunder,

(ii) suggest measures for the removal of difficulties in such implementation or for the improvement thereof and

(iii) such other functions as the State Government may from time to time assign to the Committee.

**Annual Report.** 16. The State Government shall prepare an annual report on the working of the Act and lay the same before the State Legislature for a period of not less than fifteen days in the Budget Session of the succeeding financial year.

**Legal aid.** 17. Legal aid shall be made available by the State Government at the prescribed rates to the employees belonging to Scheduled Castes and Scheduled Tribes in cases of their grievances.

**Rule making power.** 18. (1) The State Government may, by notification in the *Official Gazette* (after previous publication), make rules to carry out all or any of the purposes of this Act.

(2) In particulars and without prejudice to the generality of the foregoing powers, the State Government may make rules in respect of all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under this Act, shall, as soon as may be, after they are made, be laid before the State Legislature for not less than thirty days which may be comprised in one or more sessions and if during the said period, the State Legislature makes any modifications therein, the rules shall thereafter have effect only in such modified form so however that such modifications shall be without prejudice to the validity of any thing previously done under the rules.

**Overriding effect of the Act.** 19. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other law or in any rule, order or resolution made by the State Government.



**STATEMENT OF OBJECTS AND REASONS.**

According to Constitutional provisions, the State Government have made several administrative orders for implementation of policy of reservation for Scheduled Castes and Scheduled Tribes. But due to lack of effective control the provisions of such administrative order could not be strictly implemented and the employees belonging to Scheduled Castes and Scheduled Tribes have to face injustice many a time. This Bill, therefore, provides for the effective implementation of the policy.

Gandhinagar,  
Dated the 12<sup>th</sup> March, 2008

**SHAILESHBHAI PARMAR**  
M.L.A.

**FINANCIAL MEMORANDUM**

Clause 14 of the Bill requires the State Government to constitute standing committee and Clause 15 requires atleast three meeting to be held in a year, clause 17 requires the State Government to make available legal aids to employees belonging to Scheduled Castes and Scheduled Tribes at the prescribed rates. It is estimated that the expenditure to be involved from the Consolidated Fund of the State in regard to above provisions would be about rupees two lakhs per annum.

Gandhinagar,  
Dated the 12<sup>th</sup> March, 2008

**SHAILESHBHAI PARMAR**  
M.L.A.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Sub-clause (3) of Clause 1, empowers the State Government to appoint by notification in the Official Gazette the date on which the Act shall come into force.

Paragraph (f) of sub-clause (1) of clause 3 empowers the State Government to specify by order posts other than those specified in the sub-clause.

Sub-clause (3) of clause 3 empowers the State Government to specify from time to time appointments other than those specified in the preceding sub-clauses.

Sub-clause (2) of clause 4 empowers the State Government to determine the percentage of reservation of vacancies in posts and services.

Sub-clause (1) of clause 5 empowers the State Government to prescribe model roster.

Sub-clause (2) of clause 5 empowers the State Government to prescribe form for maintaining roster.

Clause 6 empowers the State Government to prescribe manner for filling up reserved vacancies by general candidates in case the number of candidates from Scheduled Castes and Scheduled Tribes is less than the number of vacancies reserved for them.

Paragraph (c) of clause 7 empowers the State Government to prescribe rates of travelling allowance to be paid to the candidates belonging to the Scheduled Castes and Scheduled Tribes for attending competitive examination or oral interviews.

Clause 10 of the Bill empowers the State Government to prescribe procedure for filling up the reserved vacancies where promotion is to be made on the basis of selection and the element of direct recruitment does not exceed fifty percent.

Sub-clause (1) of clause 12 empowers the State Government to prescribe a manner for furnishing annual report to the State Government and to maintain other records.

Paragraph (d) of clause 13 empowers the State Government to prescribe other records for conducting annual inspection.

Paragraph (b) of clause 14 empowers the Speaker of the Gujarat Legislative Assembly to determine manner for electing members of the Assembly on the Standing Committee.

The proviso to clause 14 empowers the State Government to alter the composition of the Standing Committee on issue of proclamation under Article 356 of the Constitution to such extent as it may deem fit.

Paragraph (iii) of sub-clause (2) of clause 15 empowers the State Government to assign to the Standing Committee other functions from time to time.

Clause 17 of the Bill empowers the State Government to prescribe rates for making available legal aid to the employees belonging to the Scheduled Castes and Scheduled Tribes.

Sub-clause (1) of clause 18 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is essential and of normal character.

Gandhinagar,  
Dated the 12<sup>th</sup> March, 2008

**SHAILESHBHAI PARMAR**  
M.L.A.

Gandhinagar.  
Dated the 19th March, 2008.

D. M. PATEL,  
Secretary,  
Gujarat legislative Assembly.



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# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLIX]

TUESDAY, MARCH 25, 2008/ CAITRA 5, 1930

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

### PART V

#### Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

#### THE GUJARAT APPROPRIATION BILL, 2008.

#### GUJARAT BILL NO. 20 OF 2008.

#### A B I L L

*to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2009.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Appropriation Act, 2008. Short title.
2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of fifty thousand two hundred fifteen crore, seventy-two lakhs, ninety-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2008-09 in respect of the services and purposes specified in column 2 of the Schedule. Withdrawal of Rs. 5,02,15,72,95,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 2008-2009.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

**SCHEDULE**  
(See sections 2 and 3)

No. of Vote / Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
1	Agriculture and Co-operation Department	Revenue	130294000		130294000
2	Agriculture	Revenue	6764756000		6764756000
		Capital	5000000		5000000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	2005515000		2005515000
		Capital	10000		10000
4	Animal Husbandry and Dairy Development	Revenue	1384384000		1384384000
5	Co-operation	Revenue	542510000		542510000
		Capital	23200000		23200000
6	Fisheries	Revenue	1350700000		1350700000
		Capital	50000000		50000000
7	Other Expenditure pertaining to Agriculture and Cooperation Department	Capital	11000000		11000000
8	Education Department	Revenue	39692000		39692000
9	Education	Revenue	54637013000	1545100000	56182113000
		Capital	1171500000		1171500000
10	Other Expenditure pertaining to Education Department	Revenue	11500000		11500000
		Capital	265515000		265515000
11	Energy and Petro-Chemicals Department	Revenue	43470000		43470000
12	Tax Collection Charges (Energy and Petrochemicals Department)	Revenue	73930000		73930000
13	Energy Projects	Revenue	22327601000		22327601000
		Capital	3874971000		3874971000
14	Other Expenditure pertaining to Energy and Petro-Chemicals Department	Revenue	9550000		9550000
		Capital	800000		800000
15	Finance Department	Revenue	83666000		83666000
16	Tax Collection Charges (Finance Department)	Revenue	955047000		955047000
17	Treasury and Accounts Administration	Revenue	794100000		794100000
18	Pensions and Other Retirement Benefits.	Revenue	26636410000	1200000	26637610000
19	Other Expenditure pertaining to Finance Department	Revenue	22202258000		22202258000
		Capital	115510000	100000	115610000
20	Repayment of debt pertaining to Finance Department and its Servicing	Revenue		77701234000	77701234000
		Capital		31593535000	31593535000
21	Food, Civil Supplies and Consumer Affairs Department	Revenue	87356000		87356000
22	Civil Supplies	Revenue	1762206000		1762206000
23	Food	Revenue	199479000		199479000
		Capital	12500000		12500000
24	Other Expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department	Capital	1100000		1100000
25	Forest and Environment Department	Revenue	32190000		32190000
26	Forest	Revenue	1631966000	1100000	1633066000
		Capital	1183735000		1183735000
27	Environment	Revenue	51000000		51000000
28	Other expenditure pertaining to Forest and Environment Department	Capital	5840000		5840000
29	Governor	Revenue		27912000	27912000



No. of Vote / Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
30	Council of Ministers	Revenue	23151000		23151000
31	Election	Revenue	216029000		216029000
32	Public Service Commission	Revenue	14335000	32480000	46815000
33	General Administration Department	Revenue	397920000		397920000
34	Economic Advice and Statistics	Revenue	98505000		98505000
35	Other Expenditure pertaining to General Administration Department	Revenue	1975093000	3094000	1978187000
		Capital	8040000		8040000
36	State Legislature	Revenue	109430000	1660000	111090000
37	Loans and Advances to Government Servants in Gujarat Legislature Secretariat	Capital	3407000		3407000
38	Health and Family Welfare Department	Revenue	91465000		91465000
39	Medical and Public Health	Revenue	10047294000		10047294000
		Capital	1388858000		1388858000
40	Family Welfare	Revenue	1873338000		1873338000
41	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	1895000		1895000
		Capital	17000000		17000000
42	Home Department	Revenue	240595000		240595000
43	Police	Revenue	11018803000		11018803000
44	Jails	Revenue	325976000		325976000
45	State Excise	Revenue	61850000		61850000
46	Other Expenditure pertaining to Home Department	Revenue	370265000	300000	370565000
		Capital	745002000		745002000
47	Industries and Mines Department	Revenue	84569000		84569000
48	Stationery and Printing	Revenue	461335000		461335000
49	Industries	Revenue	5788679000		5788679000
		Capital	603050000		603050000
50	Mines and Minerals	Revenue	464290000		464290000
51	Tourism	Revenue	876215000		876215000
		Capital	1100000		1100000
52	Other Expenditure pertaining to Industries and Mines Department	Revenue	253850000		253850000
		Capital	9610000		9610000
53	Information and Broadcasting Department	Revenue	7370000		7370000
54	Information and Publicity	Revenue	457040000		457040000
55	Other Expenditure pertaining to Information and Broadcasting Department	Revenue	35875000		35875000
		Capital	5500000		5500000
56	Labour and Employment Department	Revenue	49885000		49885000
57	Labour and Employment	Revenue	2025606000		2025606000
58	Other Expenditure pertaining to Labour and Employment Department	Capital	5555000		5555000
59	Legal Department	Revenue	40470000		40470000
60	Administration of Justice	Revenue	1665960000	305315000	1971275000
61	Other Expenditure pertaining to Legal Department	Revenue	203774000		203774000
		Capital	16651000		16651000
62	Legislative and Parliamentary Affairs Department	Revenue	24325000		24325000
63	Other Expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	150000		150000



No. of Vote / Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
64	Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	71100000		71100000
65	Narmada Development Scheme	Capital	21363800000		21363800000
66	Irrigation and Soil Conservation	Revenue	5649581000		5649581000
		Capital	11533049000		11533049000
67	Water Supply	Revenue	4011000000		4011000000
		Capital	8586000000		8586000000
68	Other Expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	4420000		4420000
		Capital	16020000		16020000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	33276000		33276000
70	Community Development	Revenue	5685790000		5685790000
71	Rural Housing and Rural Development	Revenue	4226312000	1654600000	5880912000
72	Compensation and Assignments	Revenue	639927000		639927000
73	Other Expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	1309415000		1309415000
		Capital	136320000		136320000
74	Transport	Revenue	2433490000		2433490000
		Capital	1325000000		1325000000
75	Other Expenditure pertaining to Ports and Transport Department	Revenue	10990000		10990000
		Capital	360000		360000
76	Revenue Department	Revenue	165301000		165301000
77	Tax Collection Charges (Revenue Department)	Revenue	946073000		946073000
78	District Administration	Revenue	1042484000		1042484000
79	Relief on account of Natural Calamities	Revenue	6118988000		6118988000
		Capital	2625900000		2625900000
80	Dangs District	Revenue	221960000		221960000
81	Compensation and Assignments	Revenue	354745000	1300000	356045000
		Capital	1800000	200000	2000000
82	Other Expenditure pertaining to Revenue Department	Revenue	9475000		9475000
		Capital	5165000		5165000
83	Roads and Buildings Department	Revenue	90670000		90670000
84	Non-Residential Buildings	Revenue	2843538000	1450000	2844988000
		Capital	4367787000		4367787000
85	Residential Buildings	Revenue	951572000		951572000
		Capital	191083000		191083000
86	Roads and Bridges	Revenue	12276088000		12276088000
		Capital	8288860000		8288860000
87	Gujarat Capital Construction Scheme	Revenue	85160000		85160000
		Capital	887000000		887000000
88	Other Expenditure pertaining to Roads and Buildings Department	Revenue	122021000		122021000
		Capital	60500000		60500000
89	Science and Technology Department	Revenue	201925000		201925000
90	Other Expenditure pertaining to Science and Technology Department	Revenue	177100000		177100000
		Capital	97100000		97100000
91	Social Justice and Empowerment Department	Revenue	29939000		29939000
92	Social Security and Welfare	Revenue	3979580000	10500000	3990080000
		Capital	152840000		152840000

No. of Vote / Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
93	Welfare of Scheduled Tribes	Revenue	865409000		865409000
		Capital	102795000		102795000
94	Other Expenditure pertaining to Social Justice and Empowerment Department	Capital	7255000		7255000
95	Scheduled Castes Sub Plan	Revenue	9421251000		9421251000
		Capital	1110055000		1110055000
96	Tribal Area Sub-Plan	Revenue	19341126000		19341126000
		Capital	11874351000		11874351000
97	Sports, Youth and Cultural Activities Department	Revenue	33763000		33763000
98	Youth Services and Cultural Activities	Revenue	622057000		622057000
99	Other Expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital	1515000		1515000
100	Urban Development and Urban Housing Department	Revenue	18700000		18700000
101	Urban Housing	Revenue	640000	675525000	676165000
102	Urban Development	Revenue	33975503000		33975503000
		Capital	300000000		300000000
103	Compensation, Assignment and Tax Collection Charges	Revenue	1129000000	300103000	1429103000
104	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue	7850000		7850000
		Capital	3010000		3010000
105	Women and Child Development Department	Revenue	9915000		9915000
106	Other Expenditure pertaining to Women and Child Development Department	Revenue	3053999000	5000000	3058999000
		Capital	500505000		500505000
	TOTAL	Revenue	305232913000	82267873000	387500786000
		Capital	83062674000	31593835000	114656509000
	TOTAL		388295587000	113861708000	502157295000

# STATEMENT OF OBJECTS AND REASONS

Article 204(1) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State, of all moneys required to meet-

- (a) the grants so made by the Assembly, and
- (b) the expenditure charged on the Consolidated Fund of the State but

not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the expenditure charged on the Consolidated Fund of the State for the financial year ending on the 31st March, 2009.

The amounts are shown below: - Rs.

(a)	Revenue Expenditure	3,87,50,07,86,000
(b)	Capital Expenditure	1,14,65,65,09,000

<b>Total :-</b>	<b>5,02,15,72,95,000</b>
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Dated the 25<sup>th</sup> March, 2008.

**VAJUBHAI VALA.**

By order and in the name of the Governor of Gujarat,

Gandhinagar.  
Dated the 25<sup>th</sup> March, 2008.

**H. D. VYAS,**  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary  
Affairs Department.



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# The Gujarat Government Gazette

**EXTRAORDINARY**  
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FRIDAY, AUGUST 29, 2008/BHADRA 7, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

## PART - V

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :-

**THE GUJARAT MARITIME BOARD (AMENDMENT) BILL, 2008.**

**GUJARAT BILL NO. 21 OF 2008.**

*A BILL*

*further to amend the Gujarat Maritime Board Act, 1981.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Maritime Board (Amendment) Act, 2008.
- (2) It shall be deemed to have come into force on the 1<sup>st</sup> April, 2008.

Short title and  
commencement.

Amendment of  
section 2 of  
Guj. 30 of 1981.

2. In the Gujarat Maritime Board Act, 1981 (hereinafter referred to as "the principal Act") in section 2, after clause (y), the following clause shall be inserted, namely:-

"(y-a) "State charges" means the charges levied under section 22A;"

Amendment of  
section 20 of  
Guj. 30 of 1981.

3. In the principal Act, in section 20, after sub-section (2), the following sub-section shall be inserted, namely:-

"(3) Notwithstanding anything contained in sub-section (1), the State charges shall be levied by the State Government under section 22A."

Substitution  
of section 22A of  
Guj. 30 of 1981.

4. In the principal Act, for the existing section 22A, the following section shall be substituted, namely:-

Levy of State  
charges.

"22A. (1) The State Government shall levy,

(i) charges for landing and shipping, licence fees, waterfront fees and lighterage charges at minor ports which are under administration, control and management of the Board; and

(ii) waterfront royalty as applicable at minor ports in the State of Gujarat,

at such rates as the State Government may, by notification in the *Official Gazette*, specify.

(2) The State charges referred to in sub-section (1) shall be collected, in the manner as may be prescribed, by the Board or by an officer as may be authorised by the Board or the State Government and all such moneys shall be credited to the Consolidated Fund of the State.

(3) The State Government shall pay to the Board under the appropriation duly made by law in this behalf the administration charges computed at the rate of fifteen percent. of the State charges levied by the State Government."

Amendment of  
section 37 of  
Guj. 30 of  
1981.

5. In the principal Act, in section 37, in sub-section (1), after the words "specified hereunder", the brackets and words "(except the State charges)" shall be inserted.



**STATEMENT OF OBJECTS AND REASONS**

Under the existing provisions of section 22A of the Gujarat Maritime Board Act, 1981, waterfront royalty on the basis of per ton cargo handled at minor ports in the State of Gujarat is levied by the State Government from the Gujarat Maritime Board, at such rate as the State Government may specify.

In order to ensure direct credit of State Charges leviable for water front use, it is considered necessary to review the existing arrangements and levy "State charges" such as the charges for landing and shipping, license fees, water front fees and lighterage charges at the minor ports besides the waterfront royalty instead of the mechanism as per the existing provisions of the said Act. For this purpose, it is proposed to substitute the existing provision of section 22A of the said Act with effect from the beginning of the current financial year i.e. 1<sup>st</sup> April, 2008.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

**JAYNARAYAN VYAS,**

**FINANCIAL MEMORANDUM**

Clause 4 of the Bill proposes to substitute the existing section 22A of the Act. Sub-section (3) of new section 22A provides that the State Government shall pay administration charges to the Board under the appropriation duly made by law in this behalf, computed at the rate of fifteen per cent. of the State Charges levied by the State Government.

The exact amount to be paid by the State Government towards the administration charges to the Board cannot be ascertained at present because it is based on the State Charges levied by the State. Therefore, it would not be possible to mention the exact amount which the State Government is required to pay to the Board from the Consolidated Fund of State, if the provisions of the Bill, if enacted and brought into force.

**JAYNARAYAN VYAS,**

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects:-

**Clause 4. -** (i) Sub-section (1) of section 22A proposed to be substituted by this clause empowers the State Government to specify by notification in the *Official Gazette*, the rates to be levied for landing and shipping, licence fees, waterfront fees and lighterage charges at minor ports which are under the administration, control and management of the Board and also for waterfront royalty at minor ports in the State of Gujarat;

(ii) sub-section (2) of section 22A empowers the State Government to prescribe by rules, the manner in which the State charges shall be collected by the Board or by an officer as may be authorised by the Board or the State Government.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,  
Dated the 29<sup>th</sup> August, 2008.

**JAYNARAYAN VYAS,**

By order and in the name of the Governor of Gujarat,

Gandhinagar,  
Dated the 29<sup>th</sup> August, 2008.

**H. D. VYAS,**  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.



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# The Gujarat Government Gazette

## EXTRAORDINARY

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### PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

**THE GUJARAT HOMOEOPATHIC (AMENDMENT) BILL, 2008.**

**GUJARAT BILL NO. 22 OF 2008.**

#### A BILL

*further to amend the Gujarat Homoeopathic Act, 1963.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Homoeopathic (Amendment) Act, 2008. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of  
section 3 of Guj.  
XXXVI of 1963.

2. In the Gujarat Homoeopathic Act, 1963 (hereinafter referred to as "the principal Act"), in section 3, in sub-section (2), - Guj. XXXVI of 1963.

(1) for clauses (a) and (b), the following clauses shall be substituted, namely :-

"(a) five members shall be nominated by the State Government who are the registered practitioners;

(b) six members shall be elected from the common electoral roll prepared for the purpose, of the registered practitioners and enlisted practitioners from amongst themselves."

(2) clause (c) shall be deleted.

Amendment of  
section 17 of Guj.  
XXXVI of 1963.

3. In the principal Act, in section 17, in sub-section (3), for the words 'on payment of a fee of rupees twenty-five', the words "on payment of such fees as may be prescribed by the State Government," shall be substituted.

**STATEMENT OF OBJECTS AND REASONS**

Sub-section (2) of section 3 of the Gujarat Homoeopathic Act, 1963 provides for the constitution of the Council of Homoeopathic System of Medicine, Gujarat. The Council consists of the following members:-

- (a) four members to be nominated by the State Government out of whom at least three shall be registered practitioners;
- (b) four members to be elected by the registered practitioners holding any of the recognized qualifications from amongst themselves; and
- (c) three members to be elected from amongst the registered practitioners other than mentioned in clause (b).

Since the practitioners referred to in above clause(c), other than holding recognized qualification are very less in number, it is considered necessary to provide that six members shall be elected from common electoral roll of registered practitioners and enlisted practitioners.

This Bill seeks to amend sub-section (2) of said section 3, so as to increase the existing strength of four members to five members, to be nominated by the State Government who are the registered practitioners; and four elected members to six members to be elected from amongst all the registered practitioners and enlisted practitioners. *Clause 2* of the Bill provides for the amendment of sub-section (2) of section 3 of the Gujarat Homoeopathic Act, 1963 so as to achieve the aforesaid object.

Sub-section (3) of section 17 provides for payment of a fee of rupees twenty-five for registered practitioner to get his name registered in the register to be maintained under the said section 17. It is proposed to empower the State Government to prescribe the fees for payment of registration from time to time instead of existing fees of rupees twenty-five. *Clause 3* of the Bill provides accordingly.

**JAYNARAYAN VYAS,**

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects:-

*Clause 1.-* Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

*Clause 3.-* Sub-section (3) of section 17 of the Act proposed to be amended by this clause empowers the State Government to prescribe by rules, the fees to be paid for registering the name in the register of the Homoeopathic practitioners.

The delegation of legislative powers as aforesaid are necessary and of a normal character.

Gandhinagar.

**JAYNARAYAN VYAS.**

Dated the 10<sup>th</sup> September, 2008.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**

Gandhinagar,

Dated the 11<sup>th</sup> September, 2008. Secretary to Government of Gujarat,  
Legislative and Parliamentary Affairs  
Department.

Government Central Press, Gandhinagar.



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# The Gujarat Government Gazette

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## PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

### THE GUJARAT METROPOLITAN PLANNING COMMITTEES BILL, 2008.

GUJARAT BILL NO. 23 OF 2008.

#### A BILL

*to provide for the constitution of the Metropolitan Planning Committee in every Metropolitan area for preparation of the draft development plan for the Metropolitan area.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Metropolitan Planning Committees Act, 2008. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires, -

- (a) "Chief Executive Authority" means officer appointed by the Government in respective Urban Development Authority;
- (b) "Collector" means the Collector of the District in the Metropolitan area;
- (c) "Committee" means a Metropolitan Planning Committee constituted under sub-section (1) of section 3;
- (d) "district" means a district of Gujarat;



- (e) "District Development Officer" means the officer appointed as such by the Government under the Gujarat Panchayats Act, 1993; Guj. 18 of 1993.
- (f) "District Panchayat" means a District Panchayat defined in clause (7) of section 2 of Gujarat Panchayats Act, 1993; Guj. 18 of 1993.
- (g) "panchayat" means a village panchayat as defined in clause (30) of section 2 of the Gujarat Panchayats Act, 1993; Guj. 18 of 1993.
- (h) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "Metropolitan area" means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Government by public notification to be a Metropolitan area for the purposes of this Act;
- (k) "Municipality" means an institution of self-Government as defined in clause (14) of section 2 of the Gujarat Municipalities Act, 1963; Guj. 34 of 1964.
- (l) "notification" means notification published in the *Official Gazette*;
- (m) "Urban Development Authority" means an urban development authority constituted under Sub-section (1) of section 22 of the Gujarat Town Planning and Urban Development Act, 1976 for Ahmedabad, Surat, Vadodara and Rajkot. President Act No. 27 of 1976.

**Constitution of  
Metropolitan  
Planning  
Committee.**

3. (1) The State Government shall, by notification in the *Official Gazette*, constitute a Metropolitan Planning Committee in every Metropolitan area consisting of such number of persons not less than thirty and not more than forty-five as it may determine.

(2) The Metropolitan Planning Committee shall consist of following members, namely :-

- (i) The Chairperson of the committee shall be the Minister nominated by the Government;
- (ii) the President of the District Panchayat having largest population in the Metropolitan area if there are more than one district, within the Metropolitan area, shall be a member;
- (iii) the Chairman of the concerned Urban Development Authority in Metropolitan area, *ex-officio*;
- (iv) the Mayor of Municipal Corporation shall be member;
- (v) the Municipal Commissioner, *ex-officio*;
- (vi) the District Collector, *ex-officio*;
- (vii) the District Development Officer of the District Panchayat having largest population in the Metropolitan area if there are more than one district, within the Metropolitan area, *ex-officio*;

- (viii) the Chief Executive Authority of concerned Urban Development Authority shall be Member-Secretary of the Committee and his office will be the Secretariat of the Committee;
- (ix) a person or persons, as determined by the State Government having special knowledge in the fields of economics, planning, finance, engineering or administration, may be appointed as member or members;
- (x) Such number of members as determined by the State Government, to be elected by and from amongst the elected members of Municipalities and Chairpersons of Panchayats falling in the Metropolitan area :

Provided that not less than two-thirds of the total number of the members of the Committee shall be elected by and from amongst the elected members of the Municipalities and Chairpersons of the Panchayats in proportion to the ratio between the population of the Municipalities and of the Panchayats in the Metropolitan area.

(3) (i) The members of the House of the People and the members of the Gujarat Legislative Assembly elected from any constituency in the Metropolitan area or a part thereof shall be permanent invitees to the Metropolitan Planning Committee;

(ii) Such officer or officers of the State Government or of any statutory Board, Corporation or Authority having knowledge in the field of economics, planning, engineering, finance or administration, as decided by the State Government, shall be the permanent invitees to the Metropolitan Planning Committee.

4. (1) The Municipal Commissioner shall co-ordinate and supervise all works in connection with the election of members to the Committee in the manner as may be prescribed. **Election.**

(2) The Municipal Commissioner shall appoint a Returning Officer and as many Assistant Returning Officer as may be necessary for conducting the election of members to the Committee.

(3) The powers and functions of the Returning Officer and the Assistant Returning Officers shall be such as may be prescribed.

(4) Where any dispute arises regarding any election held under this Act, any person entitled to vote at such election may, within thirty days after the date of the declaration of the results of such election, file an appeal before the Election Commissioner of the State having jurisdiction, and the decision of the Election Commissioner shall be final and shall not be called in question in any court.

(5) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no civil court of law shall have jurisdiction to entertain any petition calling in question the validity of any election held under this Act.

5. (1) The term of office of the members of the Committee other than *ex-officio*, shall be five years.

**Term of office and other conditions of members of Committee.**

(2) A member of a Committee, who is a Chairperson of a Panchayat, or a member of a Municipality, the House of the People, the Legislative Assembly of the State shall cease to be a member of the Committee if he ceases to be a Chairperson of respective Panchayat, or a member of the respective Municipality, the House of the People or the Legislative Assembly of the State.

(3) The other terms and conditions of the members of the Committee shall be such as may be prescribed.

**Resignation.** 6. A member of a Committee may, at any time, resign his office by writing to the Chairperson and, on such resignation being accepted, the member shall be deemed to have vacated his office.

**Filling of casual vacancy in place of an elected member of Committee.** 7. Any vacancy occurring by reason of death, resignation or otherwise of an elected member of a Committee shall be filled by election of another member in the manner as may be prescribed.

**Grant to Committee.** 8. The State Government shall provide to the Committee such sum as it may think fit for the purpose of carrying out the functions by the Committee under this Act.

**Procedure, records to be regulated by Committee.** 9. (1) The Committee shall meet on such date, at such time and place as the Chairperson may think fit and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed;

Provided that the Chairperson, when required by a notice in writing by at least one-third of the members of the Committee shall call a meeting within one month from the date of receipt of the notice.

(2) Minimum of ten members, shall form a quorum for a meeting of the Committee :

Provided that no quorum shall be necessary for an adjourned meeting.

(3) The Secretary of the Committee shall maintain records and the proceedings of the meetings of the Committee and shall take such actions as the Committee may decide.

**Functions of Metropolitan Planning Committee.** 10. (1) Every Metropolitan Planning Committee shall prepare a draft development plan for the Metropolitan area as a whole.

(2) The Committee shall, in preparing the draft development plan under sub-section (1), -

(a) have regard to -

- (i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area,
- (ii) matters of common interest between the Municipalities and the Panchayats, including co-coordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
- (iii) the overall objectives and priorities set by Government of India and the State Government;
- (iv) the extent and nature of investments likely to be made in Metropolitan area by agencies of the Government of India and of the State Government and other available resources whether financial or otherwise;

(b) consult such institutions and organizations as the State Government may, by order, specify.

(3) The Chairperson of a Metropolitan Planning Committee shall forward the draft development plan, as recommended by such Committee, to the State Government in the manner as may be prescribed.

(4) The Chairperson of a Committee shall have powers to invite any expert of any field if necessary as a special invitee.

11. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act. **Power of State Government to make rules.**

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters, which under any provision of this Act, are required to be prescribed or to be provided for by rules.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

12. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as appears it to be necessary or expedient for removing the difficulty. **Power to remove difficulties.**

Provided that no order under sub-section (1) shall be made after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

**STATEMENT OF OBJECTS AND REASONS**

It is provided in article 243ZE of Constitution of India that there shall be constituted in every Metropolitan area; a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

In view of the said provision, the legislature of a State has to make provision with respect to-

- (a) the composition of the Metropolitan Planning Committee;
- (b) the manner in which the seats in such Committee shall be filled;
- (c) the functions relating to Planning and co-ordination for the Metropolitan area which may be assigned to such Committee;
- (d) the manner in which the Chairperson of such Committee shall be chosen;

It is, therefore, considered necessary to constitute the Metropolitan Planning Committee and make other incidental provisions so as to implement the provisions contained in article 243ZE of the Constitution of India.

This Bill seeks to achieve the aforesaid object.

The following notes on clauses explain, in brief, the important provisions of the Bill:-

**Clause 1.** - This clause provides for short title and commencement of the Act.

**Clause 2.** - This clause defines certain terms used in the Bill.

**Clause 3.** - This clause empowers the State Government to constitute, by notification in the *Official Gazette*, a Metropolitan Planning Committee in every Metropolitan area;

**Clause 4.** This clause provides for election of members of Metropolitan Planning Committee. It also provides for appointment of Returning Officer and Assistant Returning Officer, their powers and functions.

**Clause. 5** - This clause provides for the term and other conditions of office of the member of Committee.

**Clause 6 .** - This clause provides for resignation of a member of the Committee.

**Clause 7 .** - This clause provides for occurrence of vacancy of member and filling of such vacancies.

**Clause 8 .** - This clause provides for the grant by the State Government to the Metropolitan Planning Committee.

**Clause 9 .** - This clause provides for the regulations of procedure to be followed and the records to be maintained by the Secretary of the Committee.

**Clause 10 .** - This clause provides for powers and functions of the Committee.

**Clause 11 .** - This clause empowers the State Government to make rules for carrying out the purposes of the Act and particularly for matters under any of the provision of this Act.

**Clause 12 .** - This clause empowers the State Government to remove difficulties arising in giving effect to the provisions of the Act, within two years from the commencement of the Act.

NITIN PATEL,



**FINANCIAL MEMORANDUM**

*Clause 8* of this Bill provides that the State Government shall provide to the Metropolitan Planning Committee such sum as it may think fit for the purpose of carrying out the functions of the Committee. At present it is not possible to ascertain the exact amount of grant to be made available to the Committee. This provision of the Bill, if enacted and brought into force would involve expenditure from the Consolidated Fund of the State.

NITIN PATEL,

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects :-

*Clause 1.-* Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which this Act shall come into force.

*Clause 3.-* This clause empowers the State Government to constitute, by notification in the *Official Gazette*, a Metropolitan Planning Committee in each Metropolitan area;

*Clause 4.-* (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which the Municipal Commissioner shall co-ordinate and supervise all works in connection with the election of members to the Committee;

(ii) sub-clause (3) of this clause empowers the State Government to prescribe by rules, the powers and functions of the Returning Officer and the Assistant Returning Officers.

*Clause 5.-* Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the other terms and conditions of the members of the Metropolitan Planning Committee.

*Clause 7.-* This clause empowers the State Government to prescribe by rules, the manner in which any vacancy occurred shall be filled by election of another member.

*Clause 9.-* Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the date, time and place at which the Committee shall meet and the rules of procedure in regard to transaction of business at its meeting to be observed by the Committee.

*Clause 10.-* (i) Para (b) of sub-clause (2) of this clause empowers the State Government to specify, by order, the institutions and organisations to be consulted by a Committee for preparing draft development plan;

(ii) sub-clause (3) of this clause empowers the State Government to prescribe by the rules, the manner in which the draft development plan shall be forwarded to the State Government by the Chairperson of a Committee.

*Clause 11.-* This clause empowers the State Government to make rules generally for carrying out the purposes of this Act and particularly for matters required under any of the provision of this Act to be prescribed by rules.

**Clause 12.-** This clause empowers the State Government to remove difficulties arising in giving effect to the provisions of the Act within two years from the commencement of the Act.

The delegation of legislative powers as aforesaid is necessary and of a normal character.

Gandhinagar.

Dated the 11<sup>th</sup> September, 2008.

**NITIN PATEL.**

By order and in the name of the Governor of Gujarat

Gandhinagar,  
Dated the 11<sup>th</sup> September, 2008.

**H. D. VYAS,**  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs  
Department.



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# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLIX]

THURSDAY, SEPTEMBER 11, 2008/BHADRA 20, 1930

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

### PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

### THE BOMBAY LAND REVENUE (GUJARAT AMENDMENT) BILL, 2008.

GUJARAT BILL NO. 24 OF 2008.

#### A BILL

*further to amend the Bombay Land Revenue Code, 1879.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. This Act may be called the Bombay Land Revenue (Gujarat Short title. Amendment) Act, 2008.

Amendment of section 65B of Bom. V of 1879. 2. In the Bombay Land Revenue Code, 1879, in section 65B, in sub-section (1), in clause (b), in sub-clause (I), in paragraph (b), to item (vi) after the existing proviso, the following proviso shall be added, namely :-

“Provided further that the State Government may exempt, by notification in the *Official Gazette*, the use of land for such *bonafide* industrial purpose from the fulfilment of the condition mentioned at item (vi) above by an occupant or class of occupants as it may deem fit.”



**STATEMENT OF OBJECTS AND REASONS**

Under the existing provisions of section 65B of the Bombay Land Revenue Code, 1879, it is lawful for the occupant of the land which is being used or held for the purpose of agriculture or for any non-agricultural purpose not being an industrial purpose is designated for the use of industrial purpose in the development plan or town planning scheme or the land is situated in the area which is designated by the Government for industrial purpose, to use such land or part thereof for a *bonafide* industrial purpose other than the purpose of manufacture or storage of any chemical or petro-chemicals without the permission of the Collector. This provision is subject to fulfilment of certain conditions. As per one of the conditions, the occupant can use such land for *bonafide* industrial purpose without the permission of the Collector provided such land or part thereof is not situated within 5 kilometres of the periphery of the area within the jurisdiction of any Area Development Authority or Urban Development Authority. However, under section 65 of the said Act, the occupant of the land held for the purpose of agriculture may apply to the Collector if he wishes to use his holding or any part thereof for any other purpose. As per the said provisions of section 65, any holder of land which is situated in Town Planning Scheme or where no Town Planning Scheme is in force and where the land is designated by the State Government for use of industrial purpose may apply to the Collector for grant of permission for the use of the land for *bonafide* industrial purpose. Whereas the benefits under section 65B which are available to the other occupant to use his land for *bonafide* industrial purpose without the prior permission of the Collector are not available to the occupant of the land which is situated within 5 kilometres of the periphery of the area within the jurisdiction of any Area Development Authority or Urban Development Authority.

The Government has received the number of representations to amend the said condition of 5 kilometres from section 65B of the said Act to enable the investors to use the land for the *bonafide* industrial purpose without the prior permission of the Collector. So as to attract the investors for huge investment under the Global Investment Summit, it is, considered necessary to add the proviso after the existing proviso in section 65B, in sub-section (1), in sub-clause (I), in paragraph (b), to item (vi). This will enable the State Government to exempt an occupant or class of occupants from fulfilment of the said condition.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

**ANANDIBEN PATEL,**

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative power in the following respects :-

**Clause 2.-** The proviso proposed to be added in section 65B empowers the State Government to exempt by notification in the *Official Gazette*, an occupant or class of occupants from fulfilment of condition mentioned at item (vi) in said section.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Gandhinagar,

**ANANDIBEN PATEL.**

Dated the 11<sup>th</sup> September, 2008.

**H. D. VYAS,**

Gandhinagar,

Secretary to Government of Gujarat,

Dated the 11<sup>th</sup> September, 2008.

Legislative and Parliamentary Affairs  
Department.

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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. XLIX]

FRIDAY, SEPTEMBER 12, 2008/BHADRA 21, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

### PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :-

#### THE GUJARAT COTTON SEEDS (REGULATION OF SUPPLY, DISTRIBUTION, SALE AND FIXATION OF SALE PRICE) BILL, 2008.

GUJARAT BILL NO. 25 OF 2008.

#### A BILL

*to regulate the supply, distribution, sale and fixation of sale price of cotton seeds and for the matters connected therewith and incidental thereto.*

**WHEREAS** cotton seeds of certain varieties are not notified under section 5 of the 54 of 1966. Seeds Act, 1966 and consequently no sale of such seeds are regulated under section 7 of the said Act;

**AND WHEREAS** cotton seeds is not an essential commodity within the meaning of 10 of 1955. the Essential Commodities Act, 1955 as amended by the Essential Commodities 54 of 2006. (Amendment) Act, 2006;

AND WHEREAS the provisions of the Seeds (Control) Order, 1983, issued under section 3 of the Essential Commodities Act, 1955 are not applicable in so far as they relate to the cotton seeds with effect from 12<sup>th</sup> February, 2007; 10 of 1955.

AND WHEREAS there is no provisions in the Environment (Protection) Act, 1986 to regulate the supply, distribution and sale of transgenic and genetically modified cotton seeds and to control the sale price of such cotton seeds in the State; 29 of 1986.

AND WHEREAS the traders in cotton seeds including transgenic cotton seeds are exploiting poor farmers by collecting exorbitant price;

AND WHEREAS there is no provision to regulate the supply, distribution, sale of cotton seeds and to control the sale price of such cotton seeds in the State;

AND WHEREAS it has become imperative on the part of the State Government to regulate the supply, distribution and sale of cotton seeds by fixing the sale price in the interests of the farmers in the State.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

**Short title and commencement.** 1. (1) This Act may be called the Gujarat Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2008.

(2) It shall be deemed to have come into force on 11<sup>th</sup> June, 2008.

**Definitions.** 2. In this Act, unless the context otherwise requires,-

(1) "Agronomic Performances" means distinguishable agronomic qualitative and quantitative characteristics of any cotton seeds variety considered for evaluation of performance as claimed by the producer on label;

(2) "Controller" means the Cotton Seeds Controller appointed under section 3;

(3) "Cotton Seeds" means cotton seeds of any variety and includes transgenic and genetically modified cotton seeds varieties used for sowing;

(4) "Farmer" means any person who raises cotton crops either by cultivating the land by himself or through any other person but shall not include persons, companies, traders, dealers who are engaged in the commercial procurement and sale of seeds;



- (5) "Misbranded" the seeds shall be deemed to be misbranded, if -
- (i) it is a substitute for, or resembles in a manner likely to deceive, another variety of seed under the name of which it is sold, and is not plainly and conspicuously labeled so as to indicate its true nature; or
  - (ii) it is falsely stated to be the produce of any place or country; or
  - (iii) it is sold by a name which belongs to another kind or variety of seeds; or
  - (iv) false claims are made for it upon the label or otherwise; or
  - (v) sold in a package which has been sealed or prepared by, or at the instance, of the dealer and which bears his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Act; or
  - (vi) the package containing it or the label on the package bears any statement, design or device regarding the quality of cotton seeds contained therein, which is false or misleading in any material particular or if the package is otherwise deceptive with respect of its contents; or
  - (vii) it is not registered in the manner required by or under the provisions of this Act; or
  - (viii) its label does not contain a warning or caution, which may be necessary and sufficient, if complied with to prevent risk to human beings or animals; or
  - (ix) the package containing it or the label on the package bears the name of a fictitious individual or company as the dealer of the kind or variety; or
  - (x) it is not labeled in accordance with the requirement of the provisions of this Act or the rules made thereunder;
- (6) "prescribed" means prescribed by rules made under this Act;
- (7) "producer" means a person, group of persons, firm or company or organisation who grows or organises the production of cotton seeds;
- (8) "Spurious Seeds" means the cotton seeds which is not genuine or true to its type;
- (9) "State Seeds Testing Laboratory" means a laboratory established or declared as such by the State Government by a notification published in the *Official Gazette*;
- (10) "sub-standard seeds" means cotton seeds which does not meet with the prescribed standards for the cotton seeds;

(11) "Transgenic Variety" means seeds or planting material synthesised or developed by modifying or altering the genetic composition by means of genetic engineering;

(12) "Variety" means a plant grouping except micro-organism within a single botanical taxon of the lowest known rank, which can be -

- (i) defined by the expression of the characteristics resulting from a given genotype of that plant grouping;
  - (ii) distinguished from any other plant grouping by expression of at least one of the said characteristics;
  - (iii) considered as a unit with regard to its suitability for being propagated which remains unchanged after such propagation;
- and includes propagating material of such variety, extant variety, transgenic variety, farmers' variety and essentially derived variety;

(13) The words and expressions used in this Act but not defined shall have the same meaning assigned to them in the Seeds Act, 1966, the Essential Commodities Act, 1955, Seeds (Control) Order, 1983 issued there under and the Environment (Protection) Act, 1986.

54 of 1966.

10 of 1955.

29 of 1986.

**Appointment of Controller.** 3. The State Government may, by notification published in the *Official Gazette*, appoint an officer to be the Cotton Seeds Controller for the State.

**Powers of Controller.** 4. (1) Subject to the control of the State Government, the Controller, if it appears to him to be necessary or expedient for regulating, maintaining or increasing the supply or distribution or sale of cotton seeds, may, by order in writing, -

- (a) require any person holding stock of cotton seeds to sell the whole or specified part thereof at such prices as may be fixed by the State Government from time to time and to such persons in such circumstances as may be specified in the said order;
- (b) require any person engaged in the supply, distribution and sale of cotton seeds to comply with such directions as may be specified in the order as to the variety, quality or quantity of the cotton seeds to be sold or delivered by him from time to time.

(2) Any person to whom an order is issued under sub-section (1) shall comply with such order, notwithstanding anything inconsistent therewith contained in any contract or other instrument to which he is a party.

**License for vendor.** 5. (1) Every person desirous to carry on the business of sale in cotton seeds shall apply to the Controller for grant of licence in such form as may be prescribed.



(2) Such application shall be accompanied by such fees and such other documents, as may be prescribed.

(3) The Controller shall, after making such enquiry as he deems fit, either grant the application or reject it.

(4) If the Controller grants the application, he shall issue a licence to carry on the business of sale in cotton seeds, subject to such terms and conditions and in such form as may be prescribed.

6. The Controller appointed under this Act shall perform the following functions, namely :- **Functions of Controller.**

- (a) arrange for mandatory registration of cotton seeds firms which are engaged in the trade of cotton seeds duly indicating the production aspects and areas of operation etc;
- (b) arrange for payment of compensation to the farmers;
- (c) advice the State Government on matters relating to regulation of sale of cotton seeds by way of compulsory DNA finger printing test or genetic purity test; and
- (d) such other matters as assigned to him by the State Government.

7. The State Government may in consultation with the Controller and by notification in the *Official Gazette*, -

**State Seeds Testing Laboratory.**

(a) establish one or more State Seeds Testing Laboratories or declare any seeds testing laboratory in the Government or non-Government sector as the State Seeds Testing Laboratory where analysis of cotton seeds shall be carried out in the prescribed manner;

(b) recognize one or more seeds testing laboratories as referral seeds testing laboratories for the purpose of referral analysis in the prescribed manner.

8. (1) The producer or distributor or vendor of cotton seeds or, as the case may be, whose address appears on the label shall disclose the expected performance of such seeds, under given conditions to the Controller and if such seeds fails to provide the expected performance under such given conditions, the State Government or farmer may claim compensation in such manner as may be prescribed. In respect of transgenic seeds all the conditions that are imposed by Genetic Engineering Approval Committee has to be complied. **Compensation to farmers.**

(2) In case the claim of expected performance is found fictitious, the producer whose address appears on the label, shall be responsible for payment of all such claims related to agronomic performance as specified in sub-section (1).



(3) The compensation payable under sub-sections (1) and (2) shall be assessed and fixed by the committee appointed for each agro-climatic zone separately, consisting of crop experts and representatives of the State Government, as may be notified by the State Government.

Seeds  
Inspector.

9. (1) The State Government may, by notification published in the *Official Gazette*, appoint such person as it thinks fit to be Seeds Inspector and specify the areas within which he shall exercise his jurisdiction.

(2) The Seeds Inspector, if he has information that any person dealing in the trade of cotton seeds has contravened any of the conditions issued by the Controller, or suspecting the quality of the cotton seeds or any person is about to commit an offence in respect of cotton seeds, he may enter in any premises for the purpose of search, and draw samples and detain or seize the stock of cotton seeds and records and after receiving the reports of Seeds Analysts, shall take all further actions in accordance with the provisions of this Act.

Seeds  
Analyst.

10. The State Government may, by notification published in the *Official Gazette*, appoint such person as it thinks fit, to be the Seeds Analyst and specify the areas within which he shall exercise his jurisdiction.

Report of  
Seeds  
Analyst.

11. (1) The Seeds Analyst shall, as soon as may be after the receipt of the sample from the Seeds Inspector, analyse the sample at the State Seeds Testing Laboratory and furnish a report on the result of the analysis to the Seeds Inspector, within thirty days of receipt of the sample to the laboratory.

(2) The Seeds Inspector shall on the basis of the report of the Seeds Analyst under sub-section (1), institute proceedings for the prosecution on the producer or, as the case may be, vendor of the said seeds.

(3) After institution of prosecution under this Act, the accused producer or vendor or, as the case may be, the complainant may on payment of the prescribed fees, make an application to the Court for sending any of the sample retained with Seeds Inspector or producer or vender as per discretion of Magistrate to any of the laboratory referred to in section 7 of this Act, for its report. The Court shall first ascertain the mark or seal or the fastening as may be prescribed or the intact. On receipt of the application, the Court may dispatch the sample under its own seal to any of the referral laboratory specified for the purpose, which shall thereupon send its report to the Court in the prescribed form specifying the result of the analysis within a period of thirty days from the date of receipt of the sample.

(4) The report sent by the referral laboratory under sub-section (3) shall supersede the report given by the Seeds Analyst under sub-section (1).

(5) When the report sent by the referral laboratory under sub-section (3) is produced in any proceedings, it shall not be necessary to produce any such sample or part thereof taken for analysis in any proceedings.

12. (1) The State Government may, after taking into consideration of the cost of production, etc. including trait value and other related factors wherever necessary, obtained from various agencies concerned, fix maximum sale price from time to time, of all types of cotton seeds.

**Power to fix the price.**

(2) Every such price shall be published in the *Official Gazette* and shall be effective from such date as may be specified therein.

13. (1) If any person contravenes any of the provisions of this Act or the rules or the order issued to him by the Controller under this Act, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend up to rupees five thousand or with both.

**Penalties.**

(2) If any person commits any act of misbranding, sale of spurious and substandard cotton seeds shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to rupees five thousand or with both.

14. (1) Where an offence under this Act or the rules thereunder has been committed by a company, every person who, at the time the offence was committed, was in-charge of, and was responsible to the company, for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

**Offences by companies.**

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other



officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.* - For the purpose of this section, -

- (a) "company" means a body corporate, and includes a firm or other association of persons; and
- (b) "director" in relation to a firm means a partner in the firm.

**Cognizance of offences.** 15. No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by the Controller or any other authority authorized by him.

**Appeal.** 16. (1) Any person aggrieved by a decision of the Controller under section 4 or 5 may, within thirty days from the date on which the decision is communicated to him and on payment of such fees as may be prescribed, prefer an appeal to the State Government:

Provided that the appellate authority may admit an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1) the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(3) Every order of the appellate authority under this section shall be final.

**Forfeiture of cotton seeds.** 17. When any person has been convicted for the contravention of any of the provisions of this Act or the rules made thereunder, the cotton seeds in respect of which the contravention has been committed may be forfeited to the State Government.

**Exemption.** 18. Nothing in this Act shall apply to any cotton seeds grown by a farmer and sold or delivered by him on his own premises directly to another farmer for being used by that farmer for the purpose of sowing.

**Officers to be public servant.** 19. The Controller and all other officers appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

20. No suit, prosecution or other legal proceedings shall lie against the State Government or the Controller, the Seeds Inspector, the Seeds Analyst or an officer or employee of the State Government for anything which is done or intended to be done in pursuance of any of the provisions of this Act or rules made thereunder.

**Protection of action taken in good faith.**

21. The State Government may give such directions to the Controller, the Seeds Inspector or the Seeds Analyst as may appear to it to be necessary for carrying out the provisions of this Act or of any rules made thereunder.

**Power of State Government to give directions.**

22. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

**Power to make rules.**

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters, which under any provision of this Act, are required to be prescribed or to be provided for by rules.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

23. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as appears it to be necessary or expedient for removing the difficulty :

**Power to remove difficulty.**

Provided that no order under sub-section (1) shall be made after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

24. (1) The Gujarat Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Ordinance, 2008 is hereby repealed.

**Repeal and savings.**



(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

### STATEMENT OF OBJECTS AND REASONS

The provisions of the Seeds Act, 1966 (54 of 1966) in its application to the State of Gujarat regulates the quality of seeds in respect of notified varieties but cotton seeds is not notified under the said Act. For the past few years, in view of the substantial change of pattern of agriculture particularly in usage of seeds, the provisions of the said Act are found to be inadequate for enforcement in respect of quality of cotton seeds and regulation of trade of non-notified cotton varieties research hybrid varieties, etc., as a result, the entire economy of farmer is adversely affected.

By the recent amendment of Essential Commodities Act, 1955 Cotton Seed is deleted from the Schedule of the Act. The traders who are dealing in cotton seeds including transgenic cotton seeds have been resorting to dubious methods for exploitation of poor farmers particularly in respect of scarce type of cotton seeds, causing unjustified burden towards seeds cost which is essential and vital input in the process of agriculture, which lead the several farmers into debt trap. The multinational companies are taking undue advantage of their monopoly in respect of scarce type of cotton seeds.

Article 39 (b) of the Constitution of India empowers the State Government to make suitable statutory provisions, so as to make available the commodities essential to the citizens at fair price. Therefore, in the interest of farming fraternity and to have free flow of supply, equal distribution and price of all kinds of cotton seedss including transgenic cotton seeds and to protect farmers economy, it is expedient and necessary to make suitable statutory provisions in this regard.

As the Legislative Assembly of the State of Gujarat was not in session, the Gujarat Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Ordinance, 2008 was promulgated to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain, in brief, the important provisions of the Bill:-

**Clause 1.** – This clause provides for the short title and commencement.

**Clause 2.** – This clause defines certain terms used in the Bill.



*Clause 3.* - This clause empowers the State Government to appoint by notification in the *Official Gazette*, an officer to be the Cotton Seeds Controller for the State.

*Clause 4.* - This clause empowers the Controller to exercise the powers for regulating, maintaining or increasing the supply or distribution or sale of cotton seeds.

*Clause 5.* - This clause provides for requirement of licence to carry on the business of sale in cotton seeds and provisions for obtaining licence.

*Clause 6.* - This clause provides for the functions of the Controller, such as registration of cotton seeds firms and regulation thereof; and payment of compensation to farmers, etc.;

*Clause 7.* - This clause provides for establishment of the State Seeds Testing Laboratories by the State Government and empowers the State Government to declare any seeds testing laboratory in the Government or non-Government sector as the State Seeds Testing Laboratory and also recognise one or more testing laboratories as referral seeds testing laboratories.

*Clause 8.* - This clause provides for the compensation to the State Government or farmers in case the producer, distributor or vendor, etc. of cotton seeds fails to provide the expected performance and for appointment of committee for assessment and fixation of compensation payable to the State Government or farmers.

*Clause 9.* - This clause provides for the appointment of the Seeds Inspector by State Government and the areas of their jurisdiction and powers to be exercised by him.

*Clause 10.* - This clause provides for the appointment of the Seeds Analyst by State Government and the areas of their jurisdiction.

*Clause 11.* - This clause provides for preparation of report, manner of institution of proceedings, etc. by the Seeds Analyst.

*Clause 12.* - This clause provides for the fixation of sale price of all type of cotton seeds by the State Government and also to specify the date on which the sale price shall be effective.

*Clause 13.* - This clause provides for the penalties for the breach of any of the provisions of the Act, rules or the order issued by the Controller.

*Clause 14. -* This clause provides for the offences by companies.

*Clause 15. -* This clause provides for taking cognizance of offence punishable under the Act by the Court on the report of the Controller or any other authority authorized by him.

*Clause 16. -* This clause provides for an appeal to the State Government against a decision of the Controller under section 4 or 5 of the Act.

*Clause 17. -* This clause provides that the cotton seeds may be forfeited in case where any person has been convicted for the contravention of the provisions of the Act or the rules made thereunder.

*Clause 18. -* This clause provides for the exemption from the provisions of the Act, to a farmer who has grown, sold and delivered cotton seeds on his own premises to another farmer.

*Clause 19. -* This clause provides that the Controller and all other officers appointed under the Act shall be the public servants.

*Clause 20. -* This clause provides for usual indemnity for acts done in good faith.

*Clause 21. -* This clause empowers the State Government to give directions to the Controller, the Seeds Inspector or the Seeds Analyst as may appear it to be necessary for carrying out the provisions of the Act or the rules made thereunder.

*Clause 22. -* This clause empowers the State Government to make by notification in the *Official Gazette*, rules for carrying out the purposes of the Act.

*Clause 23. -* This clause empowers the State Government to remove difficulties that may arise within a period of two years from the commencement of the Act, by an order published in the *Official Gazette*.

**DILEEP SANGHANI,**

#### **FINANCIAL MEMORANDUM**

*Clause 3* of the Bill provides for appointment of the Cotton Seeds Controller for the State by the State Government. The Director of Agriculture has been appointed as the Controller of Cotton Seeds for the State.



*Clause 7* of the Bill provides for establishment of one or more State Seeds Testing Laboratories to be the State Seeds Testing Laboratories. Accordingly, the existing Government Seeds Testing Laboratory, Gandhinagar has been declared as the State Seeds Testing Laboratory and has been recognized as referral Seeds Testing Laboratory.

*Clauses 9 and 10* of the Bill, respectively provide for the appointment of Seeds Inspector and Seeds Analyst. The Seeds Inspectors appointed under the Seeds Act, 1966 and the Seeds (Control) Order, 1983 have been appointed as the Seeds Inspectors and the Assistant Director of Agriculture has been appointed as Seeds Analyst.

As the existing officers of the Agriculture Department have been appointed as different officers under the Act and the Government Seeds Testing Laboratory, Gandhinagar has been declared as the State Seeds Testing Laboratory, there would not be any additional expenditure from the Consolidated Fund of the State, if the Bill is enacted and brought into force.

**DILEEP SANGHANI,**

#### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects:-

*Clause 3.* - This clause empowers the State Government to appoint by notification in the *Official Gazette*, an officer to be the Cotton Seeds Controller for the State.

*Clause 4.* - Para (a) of sub-clause (1) of this clause empowers the State Government to fix the prices at which of the cotton seeds shall be sold by any person holding stock.

*Clause 5.* - (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the application form for grant of licence;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, fees to be paid with the application form for grant of licence and other documents to be accompanied with the application;

(iii) sub-clause (4) of this clause empowers the State Government to prescribe by rules, the form of licence.

**Clause 7. -** (i) Clause (a) of this clause empowers the State Government, to establish by notification in the *Official Gazette*, one or more State Seeds Testing Laboratories or to declare any seeds testing laboratory in the Government or non-Government sector as the State Seeds Testing Laboratory and the manner in which analysis of cotton seeds shall be carried out by such Testing Laboratories;

(ii) clause (b) of this clause empowers the State Government to recognize one or more seeds testing laboratories as referral seeds testing laboratories and also to prescribe by rules, the manner in which referral analysis shall be carried out by the recognised referral seeds testing laboratories.

**Clause 8. -** (i) sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which the State Government or farmer shall claim for compensation;

(ii) sub-clause (3) of this clause empowers the State Government to appoint a committee for each agro-climatic zone consisting of crop experts and representatives of State Government for assessment and fixation of compensation payable to the State Government or farmers.

**Clause 9. -** Sub-clause (1) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, a person to be the Seeds Inspector and specify the areas within which the Seeds Inspector shall exercise his jurisdiction.

**Clause 10. -** This clause empowers the State Government to appoint by notification in the *Official Gazette*, a person to be the Seeds Analyst and specify the areas within which the Seeds Analyst shall exercise his jurisdiction.

**Clause 11.-** Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the fees for making an application to the Court for sending any of the sample retained with the Seeds Inspector, producer or vender to any of the laboratory referred to in section 7 of the Act for its report. It also empowers the State Government to prescribe by rules, the form of report in which the referral laboratory shall send its result of the analysis to the Court.

**Clause 12. -** This clause empowers the State Government to fix the sale price of all types of cotton seeds and the sale price so fixed shall be published in the *Official Gazette*, specifying the date on which it shall be effective.

**Clause 16.** - Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the fees for filing an appeal to the State Government against the decision of the Controller.

**Clause 22.** - Sub-clause (1) of this clause empowers the State Government, by notification in the *Official Gazette*, to make the rules for carrying out the purposes of the Act.

**Clause 23.** - Sub-clause (1) of this clause empowers the State Government, by an order published in the *Official Gazette*, to make such provisions to remove the difficulties that may arise within a period of two years from the commencement of the Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

**DILEEP SANGHANI.**

Gandhinagar,  
Dated the 11<sup>th</sup> September, 2008.

By order and in the name of the Governor of Gujarat,

Gandhinagar,  
Dated the 12<sup>th</sup> September, 2008.

**H. D. VYAS,**  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.





सत्यमेव जयते

# The Gujarat Government Gazette

**EXTRAORDINARY**  
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Separate paging is given to this Part in order that it may be filed as a Separate  
Compilation.

## PART - V

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

### **THE GUJARAT FORENSIC SCIENCES UNIVERSITY BILL, 2008.**

**GUJARAT BILL NO. 26 OF 2008.**

#### **A BILL**

*to establish and incorporate a University to be known as the Gujarat Forensic Sciences University in the State of Gujarat and for matters connected therewith or incidental thereto.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

#### **CHAPTER I**

#### **PRELIMINARY**

1. (1) This Act may be called the Gujarat Forensic Sciences University **Short title and commencement.**  
Act, 2008.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

**Definitions.** 2. In this Act, unless the context otherwise requires,-

- (i) "Academic Council" means the Academic Council of the University constituted under section 16;
- (ii) "Board" means the Board of Governors of the University constituted under section 12;
- (iii) "Deans" means the Deans of the University appointed under section 23;
- (iv) "Director of Research and Development" means the Director of Research and Development of the University appointed under section 20;
- (v) "Directors" means the Directors of the Institutes or the centres of the University appointed under section 22;
- (vi) "Director General" means the Director General of the University appointed under section 8;
- (vii) "Finance Committee" means the Finance Committee of the University constituted under section 18;
- (viii) "prescribed" means prescribed by the regulations;
- (ix) "Registrar" means the Registrar of the University appointed under section 21;
- (x) "Regulations" means the regulations of the University made under section 35;
- (xi) "University" means the Gujarat Forensic Sciences University established and incorporated under section 3.

## CHAPTER II

### UNIVERSITY

Establishment and  
incorporation of  
University.

3. (1) There shall be established a University by the name of the "Gujarat Forensic Sciences University".

(2) The Director General, the Board, the Academic Council, the Directors, Director of Research and Development, the Deans, the Registrar and all other persons who may hereafter become such officers or members so long as they continue to hold such office or membership, are hereby constitute a body

corporate by the name of the "Gujarat Forensic Sciences University".

(3) The University shall be a body corporate by the name as aforesaid, having perpetual succession and common seal with power, subject to the provisions of this Act, to acquire and hold property, to contract and shall, by the said name sue or be sued.

(4) In all suits and other legal proceedings by or against the University, the pleadings shall be signed and verified by the Registrar and all processes in such suits and proceedings shall be issued to, and served on, the Registrar.

4. The headquarters of the University shall be at Gandhinagar, Gujarat.

Headquarters  
of University.

5. The University shall be deemed to be established and incorporated for the following objects, namely :-

Objects of  
University.

- (i) to develop the knowledge of science, technology, providing specially designed academic training programmes in various technologies related with forensic science and behavioural science and also advanced technologies of forensic science and behavioural science, which includes both theoretical input and practical training for forensic and other applications; to generate expertise in advanced technologies required in investigation and handling of crime cases;
- (ii) to create centres and institutions of excellence for imparting State-of-the-art education training and research in the fields of forensic science, behavioural science, technology and management;
- (iii) to create capabilities for development of knowledge, skills and competencies at various levels in the field of forensic science;
- (iv) to create capabilities for upgrading the infrastructure of global standards for education, training and research in the areas related to forensic science, technology, criminology and applied behavioural science;
- (v) to develop patterns of teaching and training at various levels of educational accomplishment so as to set high standards of education in

science, technology and management in relation to forensic technologies of various specialties like DNA, Fingerprint, brain fingerprinting, document and photography, ballistics, cyber crime, Narco analysis test, etc.

- (vi) to function as a leading resource centre for knowledge and development in the areas of forensic science, behavioural science related to civil and criminal laws;
- (vii) to provide inter-relationship for national and global participation in the fields of forensic science, behavioural science and technology in relation to the domain of investigation and detection of crime and furthering the cause of criminal justice system;
- (viii) to establish close linkages with various forensic science laboratories or institutes and law enforcement authorities to make teaching, training and research relevant in forensic science;
- (ix) such other objects, not inconsistent with the provisions of this Act which the State Government may, on application by the University, by notification in the *Official Gazette*, specify in this behalf.

University  
open to all  
irrespective  
of sex,  
religion, class,  
creed or  
opinion.

6. (1) No person shall be excluded from any office of the University or from membership of any of its authorities, bodies or committees, or from admission to any degree, diploma or other academic distinction or course of study on the sole ground of sex, race, creed, caste, class, place of birth, religious belief or political or other opinion.

(2) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed, caste, class, place of birth, religious belief or profession of political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma or other academic distinction or to enjoy or exercise any privilege of the University or any benefaction thereof.

Powers and  
functions of  
University.

7. Subject to the provisions of this Act, the University shall exercise the following powers and perform the following functions, namely:-

- (i) to administer and manage the University and to establish such institutes and centres for research, education and instructions as are necessary for the furtherance of the objects of the University;
- (ii) to provide for instructions, training and research in such branches of knowledge or learning pertaining to forensic science, behavioural science, technology and management in relation to civil and criminal laws, allied areas, prevention of crimes and rehabilitation of the victims;
- (iii) to conduct innovative experiments in new methods and technologies in the field of science, technology and management in relation to the domains of investigation, prevention and detection of crimes and furthering the cause of criminal justice systems in order to achieve international standards of such education, training and research;
- (iv) to prescribe courses and curricula and provide for flexibility in the education systems and delivery methodologies including electronic and distance learning;
- (v) to hold examinations and confer degrees, diplomas or grant certificates and other academic distinctions or titles on persons subject to such conditions as the University may determine, and to withdraw or cancel any such degrees, diplomas, certificates, or other academic distinctions or titles in the manner as may be prescribed;
- (vi) to confer honorary degrees or other distinctions in the manner as may be prescribed;
- (vii) to establish such special centres, specialized study centres or other units for research and development as are, in the opinion of the University, necessary for the furtherance of its objects;
- (viii) to provide for printing, reproduction and publication of research and other work and to organize exhibitions, workshops, seminars, conferences, etc.;
- (ix) to sponsor and undertake research in all aspects of forensic science, behavioural science, technology and allied areas in relation to

Ex - V - 26 - 2



investigation, detection and prevention of crimes and rehabilitating the victims of crimes;

- (x) to collaborate or associate with any educational institution with like or similar objects;
- (xi) to develop and maintain linkages with educational or other institutions in any part of the world having objects wholly or partially similar to those of the University, through exchange of teachers, students and scholars and generally in such manner as may be conducive to their common objects;
- (xii) to develop and maintain relationships with teachers, researchers and experts in the domains of investigation and detection of crimes and furthering the cause of criminal justice system for achieving the objects of the University;
- (xiii) to regulate the expenditure, manage the finance and to maintain accounts of the University;
- (xiv) to receive grants, subventions, subscriptions, donations and gifts for the purposes of the University and consistent with the objects for which the University is established and to enter into any agreement with the Central Government, the State Government, the University Grants Commission or other authorities or bodies for receiving any grants;
- (xv) to receive funds from the industries or from any other sources as gifts, donations, benefactions or bequests and by transfers of movable and immovable properties for the purposes and objects of the University;
- (xvi) to establish, maintain and manage halls and hostels for the residence of students and accommodation for faculties, officers and employees of the University and the guest houses;
- (xvii) to supervise and control the residence and regulate the discipline of students of the University and to make arrangements for promoting their health and general welfare and cultural activities;
- (xviii) to fix, demand and receive or recover fees and such other charges as may be prescribed;

- (xix) to institute and award fellowships, scholarships, prizes, medals and other awards;
- (xx) to purchase or to take on lease any land or building or works which may be necessary or convenient for the purpose of the University on such terms and conditions as it may think fit and proper and to construct, alter and maintain any such buildings or works;
- (xxi) to sell, exchange, lease or otherwise dispose of all or any portion of the properties of the University, movable or immovable, on such terms as it may think fit, consistent with the interest, activities and objects of the University after taking prior permission of the State Government;
- (xxii) to draw and accept, to make and endorse, to discount and negotiate Government promissory notes and other promissory notes, bills of exchange, cheques or other negotiable instruments;
- (xxiii) to raise and borrow moneys on bonds, mortgages, promissory notes or other obligations or securities founded or based upon all or any of the properties and assets of the University or without any securities and upon such terms and conditions as it may think fit and to pay out of the funds of the University, all expenses incidental to the raising of moneys, to repay and redeem any money borrowed after taking prior permission of the State Government;
- (xxiv) to invest the funds of the University in or upon such securities and transpose any investment from time to time in such manner as it may deem fit in the interest of University;
- (xxv) to execute conveyances regarding transfers, mortgages, leases, licenses, agreements and other conveyance in respect of the property, movable or immovable including Government securities belonging to the University or to be acquired for the purpose of the University after taking prior permission of the State Government;
- (xxvi) to admit the students for the courses offered by the University in the prescribed manner;

- (xxvii) to create academic, technical, administrative, ministerial and other posts and to make appointments thereto;
- (xxviii) to regulate and enforce discipline among the employees of the University and to provide for such disciplinary measures as may be prescribed;
- (xxix) to institute professorships, associate professorships, assistant professorships, readerships, lectureships, endowed professorship, honorary professorships, adjunct professorships, emeritus professors and any other teaching, academic or research posts and to prescribe qualifications for them;
- (xxx) to appoint persons as Directors, Director of Research and Development, Deans, Professors, Associate Professors, Assistant Professors, Readers, Lecturers, Adjunct Professors, Registrar, or otherwise as teachers and researchers of the University;
- (xxxi) subject to the provisions of this Act and the regulations, any officer or authority of the University may, by order, delegate his or its powers (except the power to make regulations) to any other officer or authority under his or its control and subject to the condition that the ultimate responsibility for the exercise of the power so delegated shall continue to rest in the officer or authority delegating them;
- (xxxii) to do all such other acts and things as the University may consider necessary, conducive or incidental to the attainment or enlargement of all or any of the objects of the University.

**Director  
General.**

8. (1) The Director General of the University shall be appointed by the State Government.
- (2) The person to be appointed as the Director General shall,-
- (i) be a renowned Forensic Scientist,
  - (ii) be associated with Gujarat and worked in the State in terms of development, education, philanthropy, industrial or business development or exemplary administration in the State Services,

Corporations or public bodies,

- (iii) not have attained the age of sixty-five years on the date of nomination or re-nomination.

(3) The Director General shall hold office for a period of three years and shall be eligible for re-appointment for a further period of three years.

(4) The other terms and conditions of the Director General shall be such as may be determined by the State Government.

(5) The Director General may resign from his office by writing under his hand addressed to the State Government and such a resignation shall take effect from the date of acceptance by the State Government.

9. (1) The Director General shall have, subject to the provisions of this Act, power to cause an inspection or review to be made by such person or persons as he may direct, of the University, its buildings, hostels, libraries, equipments and systems and processes and of any institution or centre maintained by the University, and also of the examinations, teaching, research and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration, academic affairs and finance of the University.

**Powers and  
duties of  
Director  
General.**

(2) Without prejudice to the generality of the foregoing provisions, the Director General shall -

- (i) be the chief executive and academic officer of the University. He shall preside over the meetings of the Board, Academic Council and the Finance Committee;
- (ii) ensure implementation of the decisions of the authorities of the University;
- (iii) be responsible for imparting of instructions and maintenance of discipline in the University; and
- (iv) exercise such other powers and perform such other duties as may be assigned to him by or under this Act or the regulations or as may be delegated to him by the Board or by the State Government.

Ex. - V- 26-3



(3) Where any matter is of urgent nature requiring immediate action and the same cannot be immediately dealt with by the authority or body of the University empowered under this Act to deal with it, the Director General may take such action as he may deem fit and shall forthwith report the action so taken by him to the authority or body of the University who or which, in the ordinary course, would have dealt with the matter:

Provided that if such authority or other body is of the opinion that such action ought not to have been taken by the Director General, it may refer the matter to the Board which may either confirm the action taken by the Director General or annul the same or modify it in such manner as it thinks fit, and thereupon the action shall cease to have effects or, as the case may be, shall take effect in such modified form so however such modification or annulment shall be without prejudice to the validity of anything previously done by or under the order of the Director General.

(4) Where the exercise of the power by the Director General under subsection (3) involves the appointment of any person, such appointment shall be confirmed by the competent authority empowered to approve such appointment in accordance with the provisions of this Act and the regulations, not later than six months from the date of order of the Director General, otherwise such appointment shall cease to have effect on the expiration of a period of six months from the date of order of the Director General.

### CHAPTER III

#### AUTHORITIES AND OFFICERS OF UNIVERSITY

Authorities  
of  
University.

10. The following shall be the authorities of the University, namely :-
- (i) the Board of Governors;
  - (ii) the Academic Council;
  - (iii) the Finance Committee; and
  - (iv) such other authorities as may be declared by regulations to be the authorities of the University.

11. The following shall be the officers of the University, namely:-
- Officers of University.**
- (i) The Director General,
  - (ii) The Director of Research and Development,
  - (iii) The Directors,
  - (iv) The Deans,
  - (v) The Registrar, and
  - (vi) such other persons in the service of the University as may be declared by regulations, to be the officers of the University.
12. (1) The Board of Governors of the University shall consist of the following members, namely:-
- Board of Governors.**
- (i) the Director General, who shall be the Chairman of the Board;
  - (ii) the Director of Research and Development;
  - (iii) one Director of the University, by rotation, to be nominated by the Director General;
  - (iv) one Police Officer, not below the rank of Additional Director General of Police, to be nominated by the State Government;
  - (v) the Registrar General of the High Court of Gujarat;
  - (vi) an officer of the Home Department, not below the rank of the Secretary to Government, to be nominated by the State Government;
  - (vii) an officer of the Education Department, not below the rank of the Secretary to Government, to be nominated by the State Government;
  - (viii) three academicians or professionals in the field of forensic science, to be nominated by the State Government.
- (2) The Registrar shall be the Secretary of the Board.
13. (1) The Chairman shall preside at the meetings of the Board and at the convocation of the University.
- Powers of Chairman of Board.**
- (2) The Chairman shall exercise such other powers and perform such other functions as may be assigned to him by or under this Act or the regulations.

**Powers and  
functions of  
Board.**

**14.** (1) Subject to the provisions of this Act, the Board shall be responsible for the general superintendence, direction and the control of affairs of the University and shall exercise all the powers of the University, and shall have the power to review the acts of the Academic Council and the Finance Committee and other committees or authorities of the University.

(2) Without prejudice to the provisions of sub-section (1), the Board shall have the following powers and functions, namely :-

- (i) to take decisions on question of policy relating to the administration and working of the University;
- (ii) to institute courses of study at the University;
- (iii) to make regulations;
- (iv) to consider and approve the annual report and the annual budget of the University for every financial year;
- (v) to invest moneys and funds of the University and to take decision on the recommendations of the Finance Committee;
- (vi) to publish or finance the publication of studies, treatises, books, periodicals, reports and other literature from time to time and to sell or arrange for the sale as it may deem fit;
- (vii) to create or abolish posts of teachers and officers and employees of the university;
- (viii) to appoint such committees as it considers necessary for the exercise of its powers and performance of its duties under this Act;
- (ix) to appoint Directors of the University;
- (x) to delegate any of its power to the Directors, Deans, Registrar or any other officer, employee or any authority of the University or to a committee appointed by it; and
- (xi) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by or under this Act or the regulations, and such other powers for achieving the objects of the University.

15. (1) Save as otherwise provided in this section, the term of a nominated member of the Board under clauses (iii) and (viii) of sub-section (1) of section 12 shall be three years from the date of his nomination.

Term of office and vacancies among members of Board.

(2) A member shall be eligible for re-nomination for the next term.

(3) A member nominated under clause (viii) of sub-section (1) of section 12 may resign from his office by writing under his hand addressed to the Chairman and his resignation shall take effect from the date it is accepted by the Chairman.

16. (1) The Academic Council of the University shall consist of the following members, namely :-

Academic Council.

(i) The Director General, who shall be the Chairman of the Academic Council;

(ii) Two academicians or professionals, to be nominated by the Board;

(iii) Two academicians or professionals in the field of forensic science, to be nominated by the Board;

(iv) The Director of Research and Development;

(v) The Directors of the University;

(vi) One professor from each discipline of the University, by rotation, to be nominated by the Director General.

(2) The Registrar shall be the Secretary of the Council.

(3) The term of office of the members nominated under clauses (ii), (iii) and (vi) of sub-section (1) shall be three years.

17. Subject to the provisions of this Act and the regulations, the Academic Council of the University shall exercise the following powers and perform following functions, namely:-

Powers and functions of Academic Council.

(i) to exercise control over the academic policies of the University and be responsible for the maintenance and improvement of standards of

Ex-V-26-4



instruction, education and evaluation in the University;

(ii) to consider matters of general academic interest either on its own initiative or on a reference from the faculty of the University or the Board and to take appropriate action thereon;

(iii) to recommend to the Board, such regulations as are consistent with this Act regarding the academic functioning of the University including discipline of students; and

(iv) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by the regulations.

**Finance  
Committee.**

18. (1) The Finance Committee shall consist of the following members, namely:-

- (i) The Director General, who shall be the Chairman of the Committee;
- (ii) The Director of Research and Development;
- (iii) Two members of the Board (one of them shall be a Government nominee on the Board) to be nominated by the Board.
- (iv) The Directors of the University;
- (v) one expert in the field of finance, to be nominated by the Board;
- (vi) one professor, by rotation, to be nominated by the Board.

(2) The Registrar shall be the Secretary of the Committee.

(3) The term of office of the members nominated under clauses (v) and (vi) shall be three years.

**Powers and  
functions of  
Finance  
Committee.**

19. Subject to the other provisions of this Act, the Finance Committee shall exercise the following powers and perform the following functions, namely:-

- (i) to examine the annual accounts and annual budget estimates of the University and to advise the Board thereon;
- (ii) to review from time to time the financial position of the University;
- (iii) to make recommendations to the Board on all financial policy matters of the University;

- (iv) to make recommendations to the Board on all proposals involving raising of funds, receipts and expenditure;
- (v) to provide guidelines for investment of surplus funds;
- (vi) to make recommendations to the Board on all proposals involving expenditure for which no provision has been made in the budget or for which expenditure in excess of the amount provided in the budget needs to be incurred;
- (vii) to examine all proposals relating to the revision of pay-scales, upgradation of the scales and those items which are not included in the budget prior to placing before the Board; and
- (viii) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by the regulations.

20. (1) The Director of Research and Development shall be appointed by the Director General with the approval of the Board.

Director of  
Research and  
Development.

(2) He shall be a renowned researcher having out-standing published research work in reputed National or International Journals and under whom at least ten candidates should have obtained the doctorate degree.

(3) The qualifications and other terms and conditions of the Director of Research and Development shall be such as may be prescribed by the regulations.

(4) He shall assist the Director General in managing the research and development related academic, administrative and other affairs of the institute.

(5) He shall exercise such other powers and perform such other functions as may be prescribed or entrusted to him by the Director General.

21. (1) The Registrar shall be appointed by the University in such manner and on such terms and conditions as may be prescribed.

Registrar.

(2) The Registrar shall exercise the following powers and perform following

duties, namely:-

- (i) he shall be responsible for the custody of records, common seal, the funds of the University and such other property of the University;
- (ii) he shall place before the Board and other authorities of the University, all such information and documents as may be necessary for transaction of its business;
- (iii) he shall be responsible to the Director General for the proper discharge of his functions;
- (iv) he shall be responsible for the administration of the University and conduct the examinations and make all other arrangements necessary thereof and be responsible for the execution of all processes connected therewith;
- (v) he shall attest and execute all documents on behalf of the University;
- (vi) he shall verify and sign the pleadings in all suits and other legal proceedings by or against the University and all processes in such suits and proceedings shall be issued to and served on the Registrar; and
- (vii) he shall exercise such other powers and perform such other duties as may be assigned to him by or under this Act, the regulations or as may be delegated to him by the Board or the Director General.

**Directors.**

22. (1) The Directors of the institutes shall be appointed by the Director General with the approval of the Board in such manner and on such terms and conditions as may be prescribed.

(2) The Directors shall assist the Director General in managing the academic, administrative and other affairs of the institutes and shall exercise such powers and perform such functions as may be prescribed or entrusted to them by the Director General.

**Deans.**

23. (1) The Deans shall be appointed by the Director General from amongst the faculties of the University.

(2) The Deans shall assist the Director General and respective Directors of the institutes or centres in managing the academic and other affairs of the University and shall exercise such powers and perform such functions as may be prescribed or entrusted to them by the Director General and the Director.

## CHAPTER IV

### FINANCE

24. The State Government shall place funds at the disposal of the University to be called the Permanent Endowment Fund of sum of five crores of rupees or such sum, required for meeting the full operational expenditure of the University, whichever is more, for a period of five years in the form of long term interest bearing securities issued or guaranteed by the Central Government or the State Government.

Permanent  
Endowment  
Fund of  
University.

25. The Government shall pay to the University from time to time such sums of money and in such manner as may be considered necessary for the exercise of powers and discharge of its functions by the University by or under this Act.

Payment by  
State  
Government to  
University.

26. (1) The University shall establish a fund to be called the 'University Fund' consisting of-

Fund of  
University.

- (i) any contribution or grants or loans by the State Government and the Central Government;
- (ii) the income of the University from all sources including income from fees and charges;
- (iii) the moneys received by the University by way of grants, loans, gifts, donations, benefactions, bequests or transfer endowments and other grants, if any;
- (iv) the moneys received by the University from the collaborating industries in terms of the provisions of the Memorandum of Understanding entered between the University and the industry, for establishment of sponsored chairs, fellowships or infrastructure facilities of the University; and

Ex. - X - 26 - 5 -



(v) the moneys received by the University in any other manner or from any other source.

(2) All funds of the University shall be deposited in such banks or invested in such manner as the Board may decide on the recommendation of the Finance Committee.

(3) The funds of the University shall be applied towards the expenses of the University including expenses incurred in the exercise of its powers and discharge of its functions by or under this Act.

**Accounts  
and audit.**

27. (1) The University shall maintain proper accounts and other relevant records and prepare an Annual Statement of Accounts, including the income and expenditure account and the balance sheet, in such form and in such manner as may be prescribed.

(2) The University shall adopt a proper system of internal checks and balances and control in the discharge of its financial, accounting and auditing functions as may be prescribed by the Regulations.

(3) The accounts of the University shall be audited every year by an auditor, who shall be a Chartered Accountant as defined in the Chartered Accountants Act, 1949 or a firm of Chartered Accountants, to be appointed by the Board.

38 of  
1949.

(4) The accounts of the University certified by the person or firm so appointed or any other persons authorized in this behalf together with the audit report thereon shall be placed before the Board and the Board may issue such instructions to the University in respect thereof as it deems fit and the University shall comply with such instructions.

(5) The accounts of the University shall be audited by an internal auditor who shall be a Chartered Accountant or a firm of Chartered Accountants appointed by the Board to ensure concurrent audit of all books of accounts and such periodic internal audit reports shall be placed before the Board for review.

(6) The University shall prepare for each year an annual report of its activities of the previous year containing such particulars as the Board may specify and submit the same in the form of Annual Report to the Board on or before such date as may be prescribed, for review and approval.

(7) The copy of the annual report and annual audit report along with the resolution of the Board thereon shall be submitted to the State Government.

28. (1) The University shall, with the approval of the Board, constitute for the benefit of its officers, teachers and other employees in such manner and subject to such conditions as may be prescribed, such schemes of pension, provident fund and insurance as it may deem fit and also aid in establishment and support of the associations, institutions, funds, trust and conveyance calculated to the benefit of the officers, teachers, employees of the University.

**Pension,  
insurance  
and  
Provident  
Fund.**

(2) Where any such provident fund has been constituted, the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government Provident Fund.

19 of  
1925.

## CHAPTER V

### SUPPLEMENTARY PROVISIONS

29. No act or proceeding of the Board or any authority of the University or any committee constituted under this Act or by regulations shall be invalidated on the ground merely of the existence of any vacancy in or defect of, in the constitution of such Board, authority or committee of the University.

**Acts and  
proceedings  
not to be  
invalidated  
by vacancies.**

30. Notwithstanding anything contained in any other State law for the time being in force, the University shall have powers to confer degrees, diplomas and grant certificates and confer honorary degrees and other academic distinctions and titles as approved by the Board.

**Conferment of  
degrees,  
diplomas and  
grant of  
certificates by  
University.**

31. The University shall furnish to the State Government, University Grants Commission and other statutory authorities, such reports, returns, statements and other information as may be required by them from time to time.

**Returns and  
information.**

Officers and  
employees to  
be public  
servant.

32. Every officer, teacher and employee of the University shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

*Explanation.* - For the purpose of this section, any person, who is appointed by the University for a specified period or a specified work of the University or who received any remuneration by way of allowances or fees for any work done from the University fund, shall be deemed to be an officer or employee of the University while he is performing the duties and functions connected with such appointment or work.

Dismissal,  
removal,  
reduction or  
termination of  
services of staff  
of University.

33. (1) No officers or employees or members of the teaching, non-teaching and other academic staff of the University shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(2) An appeal against an order of dismissal, removal or reduction in rank under sub-section (1) or of termination of service shall be made to the Director General within ninety days from the date of communication of such order and the decision of the Director General in such appeal shall be final.

Power of State  
Government  
to give  
directions.

34. The State Government shall have powers to issue directions from time to time as may be required for compliance of the provisions of this Act, the regulation made thereunder and any other law for the time being in force and the University shall be bound to comply with such direction.

Power to  
make  
regulations.

35. (1) Subject to the provisions of this Act, the Board shall have in addition to all other powers vested in it, the power to make regulations to provide for the administration and management of the affairs of the University.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:-

- (i) the summoning and holding of meetings of the authorities of the University, other than the first meeting of the Board and the quorum and conduct of business at such meeting;
- (ii) the powers and functions to be exercised and discharged by the Director General;
- (iii) the constitution, powers and duties of the authorities, bodies and other committees of the University, the qualifications and disqualifications for membership of such authorities, terms of office of the membership, appointment and removal of member thereof and other matters connected therewith;
- (iv) the procedure to be followed by the Board and any committee or other body constituted by or under this Act or by the regulation in the conduct of the business, exercise of the powers and discharge of the functions;
- (v) the procedure and criteria to be followed in establishing courses of study and admission of students;
- (vi) the procedure to be followed for enforcing discipline in the University;
- (vii) the management of the properties of the University;
- (viii) the degrees, diplomas, certificates, and other academic distinctions and titles which may be conferred or granted by the University and withdrawal or cancellation of any such degree, diplomas, certificates and other academic distinctions and titles and the requirements thereof;
- (ix) the conduct of examinations including the term of office and appointment of examiners ;
- (x) the creation of posts of Directors, Professors, Associate Professors, Assistant Professors, Readers, Lectures or equivalent academic designations or posts, officers and employees of the University, and the appointment of persons to such posts including the requisite qualifications thereof;
- (xi) the fees and other charges to be paid to the University for the courses, training, facilities and services provided by it;
- (xii) the manner and conditions for constitution of insurance, pension and provident funds and such other schemes for the benefits of officers, teachers and employees of the University;

Ex - V - 26 - G



- (xiii) the terms and conditions for association of the University with other institutions;
- (xiv) the preparation of budget estimates and maintenance of accounts;
- (xv) the mode of execution of contracts or agreements by or on behalf of the University;
- (xvi) the classification and procedure for appointment of officers, employees and other staff of the University;
- (xvii) the terms and conditions and tenure of appointment, salaries and allowances, contractual services, rules of discipline and other conditions of service of the Director of Research and Development, Director, other officers, teachers and employees of the University;
- (xviii) the terms and conditions governing deputation of teachers, officers and employees of the University;
- (xix) the powers and duties of the Director of Research and Development, Directors and other officers, teachers and employees of the University;
- (xx) the terms and conditions governing fellowships, scholarships, stipends, medals and prizes;
- (xxi) the authentication of the orders and the decisions of the Board;
- (xxii) the matters relating to hostels and halls of residence and housing for faculties, officers and employees and guest house including disciplinary control therein; and
- (xxiii) all matters which by this Act are to be or may be prescribed.

**Appointment  
of First  
Registrar.**

36. Notwithstanding anything contained in section 20, the first Registrar shall be appointed by the State Government as soon as practicable after the commencement of the Act for a period not exceeding three years and on such conditions as the State Government thinks fit.

**Transitory  
provisions.**

37. Notwithstanding anything contained in this Act, the Director General may, with the prior approval of the Board and subject to availability of the funds, discharge all or any of the functions of the University for the purpose of carrying

out the provisions of this Act and the regulations and for that purpose, may exercise any power or perform any duty which by or under this Act and regulations are to be exercised or performed by any authority of the University until such authority comes into existence in accordance with the provisions of this Act and the Regulations.

38. No suit, prosecution or other legal proceedings shall lie against and no damage shall be claimed from the University, the Director General, the Directors, the authorities or officers or employees of the University or any other person in respect of anything which is done in good faith or purporting to be done in pursuance of this Act or any regulations made thereunder. **Indemnity.**

39. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing difficulties: **Power of State Government to remove difficulties.**

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

### STATEMENT OF OBJECTS AND REASONS

Forensic Science is an application of various branches of science in the detection of crimes. It has become a multi disciplinary branch playing a important role in the investigation of crime. Various multi disciplinary departments are sheltered under forensic science which basically connects the investigatory process with the justice delivery system.

The specialization in the technological know-how has become the need of the hour especially in forensic science as criminals have become more skilled and use various modern technologies and gadgets in the commission of crime. It is, therefore, felt necessary to create sound infrastructure and also the technically trained manpower in the field of forensic science for systematic and proper investigation of varieties of complex crimes. At present, there is an acute shortage of trained experts in the field of forensic science in the country. With a view to providing an education of international standards in certain specialized area of forensic science, criminology and behavioural sciences and to create specialized manpower, it is considered necessary to establish a University, unique of its kind in the country. This University for higher training and education in forensic science would ensure substantial flow of professionally trained manpower to cater to the needs of the investigating agencies and judiciary of the country.

It is, therefore considered necessary to establish the Gujarat Forensic Sciences University in the State by enacting a law.

The Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain, in brief, some of the important provisions of the Bill:-

*Clause 1 . -* This clause provides for short title and commencement.

*Clause 2 . -* This clause defines certain terms used in the Bill.

*Clauses 3 and 5 . -* These clauses provide for establishment, incorporation and objects of the University.

*Clause 7.* - This clause provides for powers and functions of the University.

*Clauses 8 and 9.* - These clauses provide for the appointment, powers and duties of the Director General of the University.

*Clauses 10 and 11.* - These clauses provide for authorities and officers of the University.

*Clauses 12 to 15.* - These clauses provide for the constitution of Board of Governors, powers of the Chairman of Board, powers and functions of the Board and term of office of members of the Board.

*Clauses 16 and 17.* - These clauses provide for the constitution and powers and functions of the Academic Council.

*Clauses 18 and 19.* - These clauses provide for the constitution and powers and functions of the Finance Committee.

*Clause 20.* - This clause provides for the appointment, powers and functions of the Director of Research and Development of the University.

*Clause 21.* - This clause provides for the appointment, powers and functions of the Registrar of the University.

*Clause 22.* - This clause provides for the appointment, powers and functions of the Directors.

*Clauses 23.* - This clause provides for the appointment, powers and functions of the Deans of the University.

*Clauses 24 and 25.* - These clauses provide for the Permanent Endowment Fund of the University and payment to the University.

*Clause 26.* - This clause provides for the funds of the University.

*Clause 27.* - This clause provides for accounts and audit of the University.

*Clause 28.* - This clause provides for Pension, Provident Funds and Insurance of officers, teachers and other employees of the University.

*Clause 30.* - This clause provides for the conferment of the degrees and diplomas and grant of certificates by the University.

*Clause 31.* - This clause provides for the returns and information to be furnished to the State Government, University Grants Commission and other

EX-V-26-7



statutory authorities.

*Clause 32 . -* This clause provides that the officers and employees of the University shall be public servants.

*Clause 33 . -* This clause provides for dismissal, removal, reduction and termination of service of staff of the University.

*Clause 34 . -* This clause provides for the power of the State Government to give directions to the University.

*Clauses 35 to 39. -* These clauses provide for making of regulations by the Board, transitory provisions, usual indemnity and power of the State Government to remove difficulties.

AMIT SHAH,

### FINACIAL MEMORANDUM

*Clause 3* of the Bill provides for the establishment and incorporation of the Gujarat Forensic Sciences University.

*Clauses 8, 20, 21, 22 and 23* of the Bill provide for the appointment of the Director General, Director of Research and Development, Registrar, Directors, Deans and teachers and other staff of the University.

*Clause 25* of the Bill provides for payment of such sums and moneys by the State Government as may be required for the discharge of functions by the University. The Bill, if enacted and brought into operation, would involve an estimated expenditure of Rs.38 crores from the Consolidated Fund of the State, in the forthcoming five years under Plan (i.e. 2008-09 to 2012-13) as under:-

1. Capital Expenditure	Rs.18 crores
2. Recurring Expenditure	Rs.15 crores
3. Corpus Fund	Rs. 5 crores
<b>Total</b>	<b>Rs.38 crores</b>

This includes expenditure on construction of building, procurement of equipments, furniture, fixtures, vehicles etc. as capital expenditure and recurring

expenditure in the form of salary of the staff, consumables, etc. A provision has also been made of Rs.5 crores as a Corpus Fund to meet unforeseen accidental expenses. In the current financial year a provision of rupees 3 crores has been made for the establishment of the University.

AMIT SHAH,

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects:-

**Clause 1.-** Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

**Clause 5.-** Sub-clause (ix) of this clause empowers the State Government to specify by notification in the *Official Gazette* such other objects of the University.

**Clause 7.-** (i) Sub-Clause (iv) of this clause empowers the Board to prescribe by regulations, the course of study and the curricula;

(ii) sub-clause (v) of this clause empowers the Board to determine by regulations, the conditions subject to which the University may confer degrees and diplomas and to grant certificates and other academic distinctions of titles; It also empowers the Board to prescribe by regulations the manner in which the University may withdraw or cancel any such degree, diploma or certificate conferred or granted by it;

(iii) sub-clause (vi) empowers the Board to prescribe by regulations, the manner in which the University may confer honorary degrees or other academic distinctions;

(iv) sub-clause (xviii) empowers the Board to prescribe by regulations to fix the fees and such other charges;

(v) sub-clause (xxvi) empowers the Board to prescribe by regulations, the manner in which the students shall be admitted to the courses offered by the University;

(vi) sub-clause (xxviii) empowers the Board to prescribe by regulations, the disciplinary measures to be taken against the officers and the employees of the University;

(vii) sub-clause (xxix) empowers the Board to prescribe by regulations, the qualifications for appointment of the persons to be appointed on the post of teaching, academic or research and other post of the University.

*Clause 8.-* Sub-clause (4) of this clause empowers the State Government to determine other terms and conditions of the Director General.

*Clause 10.—*Sub-clause (iv) of this clause empowers the Board to declare by regulations, such other authorities to be the authorities of the University.

*Clause 11.—*Sub-clause (vi) of this clause empowers the Board to declare by regulations, such other persons to be the officers of the University.

*Clause 13.-* Sub-clause (2) of this clause empowers the Board to prescribe by regulations, such other powers to be exercised and such other duties to be performed by the Chairman.

*Clause 14.-* Item (iii) of sub-clause (2) of this clause empowers the Board to make regulations for carrying out the purposes of the Act.

*Clause 17.-* Sub-clause (iv) of this clause empowers Board to prescribe by regulations, such other powers to be exercised and such other duties to be performed by the Academic Council.

*Clause 19.-* Sub-clause (viii) of this clause empowers the Board to prescribe by regulations, such other powers to be exercised and such other duties to be performed by the Finance Committee.

**Clause 20.-** (i) Sub-clause (3) of this clause empowers the Board to prescribe by regulations other terms and conditions of the Director of Research and Development;

(ii) sub-clause (2) of this clause empowers the Board to prescribe by regulations, such other powers to be exercised and such other functions to be performed by the Director of Research and Development.

**Clause 21.-** (i) Sub-clause (1) of this clause empowers the Board to prescribe by regulations, the manner in which and the terms and conditions on which the Registrar shall be appointed;

(ii) clause (vi) of sub-clause (2) of this clause empowers the Board to prescribe by regulations, such other powers to be exercised and such other duties to be performed by the Registrar.

**Clause 22.-** (i) Sub-clause (1) of this clause empowers the Board to prescribe by regulations the manner and other terms and conditions for appointment of Directors;

(ii) sub-clause (2) of this clause empowers the Board to prescribe by regulations, such other powers to be exercised and such other functions to be performed by the Directors.

**Clause 23.-** Sub-clause (2) of this clause empowers the Board to prescribe by regulations, such other powers to be exercised and such other functions to be performed by the Deans.

**Clause 27.-** (i) Sub-clause (1) of this clause empowers the Board to prescribe by regulations and the manner in which, the form in which proper accounts, other relevant records, annual statement of accounts, the income and expenditure account and balance sheet shall be maintained;

(ii) sub-clause (2) empowers the Board to prescribe by regulations, proper systems of internal checks and balances in discharge of financial, accounting and auditing functions of the University.

Ex. - V - 26 - 8



**Clause 28.-** Sub-clause (1) of this clause empowers the Board to prescribe by regulations, the manner in which and the conditions subject to which the University shall constitute such schemes of pension, provident fund and insurance for the officers and employees of the University.

**Clause 34.-** This clause empowers the State Government to issue directions to the University, as may be required for compliance of the provisions of the Act, the regulations and under any other law.

**Clause 35.-** (i) Sub-clause (1) of this clause empowers the Board to make regulations for the administration and management of the affairs of the University;

(ii) sub-clause (2) empowers the Board to make regulations for all or any of the matters specified therein.

**Clause 39.-** This clause empowers the State Government to make an Order, by publishing in the *Official Gazette*, for removing any difficulty arising within two years in giving effect to the provisions of this Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,  
Dated the 16<sup>th</sup> September, 2008.

AMIT SHAH.

By order and in the name of the Governor of Gujarat,

Gandhinagar,  
Dated the 16<sup>th</sup> September, 2008.

H.D.VYAS,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department

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Government Central Press Gandhinagar.



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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SUNDAY, SEPTEMBER 28, 2008/ASVINA 6, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

### PART - V

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

**THE GUJARAT SALARIES AND ALLOWANCES OF MEMBERS, SPEAKER  
AND DEPUTY SPEAKER OF THE GUJARAT LEGISLATIVE ASSEMBLY,  
MINISTERS AND LEADER  
OF THE OPPOSITION LAWS (AMENDMENT)  
BILL, 2008.**

**GUJARAT BILL NO. 27 OF 2008.**

### A BILL

*further to amend the laws relating to salaries and allowances of Members,  
Speaker and Deputy Speaker of the Gujarat Legislative Assembly, Ministers and  
Leader of the Opposition.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Salaries and Allowances of Members, Speaker and Deputy Speaker of the Gujarat Legislative Assembly, Ministers and Leader of the Opposition Laws (Amendment) Act, 2008. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of the Act.

Amendment of  
certain enactments.

2. The enactments specified in column 2 of the Schedule shall be amended to the extent and in the manner specified in column 3 of the said Schedule.

**SCHEDULE**  
( See section 2 )

Serial No.	Name of the Enactment.	Extent of Amendments.
1	2	3
1.	<p>The Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960 (Guj. II of 1960).</p> <p style="text-align: center;">Salaries and allowances of Members.</p> <p style="text-align: center;">Travelling allowance to Chairman or a Member of Committee when travel by air.</p>	<p>1. In section 2, after clause (b), the following clause shall be inserted, namely:-</p> <p>“(bb) “family” means a Member's spouse, legitimate children and step-children, parents, sisters and minor brothers residing with and wholly dependent on the member.</p> <p><i>Explanation.-</i> A legitimate child, parents, sister or minor brother who resides with the member and whose income from all sources does not exceed Rs. 500/- per month or the amount as may be declared by the State Government in the <i>Official Gazette</i> for the purpose shall be deemed to be “wholly dependent” on the member.”.</p> <p>2. The existing provisions of section 3 shall be deemed to have been substituted prospectively or retrospectively from such date as the State Government may notify in the <i>Official Gazette</i>, as under :-</p> <p>“3. There shall be paid to each member during the whole of his term of office, a salary and allowances per month at the rate of minimum basic pay and the allowances payable to a Class I officer in the lower rung of the State Government.”.</p> <p>3. After section 5A, the following section shall be inserted, namely :-</p> <p>“5AA. There shall be paid actual fare of economy class as a traveling allowance to the Chairman or a Member of a Committee in respect of an air journey, if any, performed by him with the permission of the Speaker, in the course of a tour in any part of India, undertaken in the discharge of his duties as such Chairman or Member.”.</p>

	<p>4. In section 5B, -</p> <p>(i) in the proviso and the <i>Explanation</i>, for the words "members of his family residing with and dependent on him", wherever they occur, the word "persons" shall be substituted;</p> <p>(ii) after the existing proviso, the following proviso shall be inserted, namely:-</p> <p>"Provided further that a member may travel by air in lieu of travel by railway subject to the conditions that the difference between the fare for journey by air and the fare for journey by railway by first class or by second class air conditioned, whichever is higher, shall be borne by the member and subject to the other conditions specified in the above proviso."</p> <p>5. In section 6, in sub-section (3), in the proviso, for the words "members of his family residing with and dependent on him", the word "persons" shall be substituted.</p> <p>6. In section 6AB, for the word "co-traveler", the words "one person" shall be substituted.</p> <p>7. In section 6AA, -</p> <p>(i) for the words "members of his family residing with and dependent on him", the word "persons" shall be substituted;</p> <p>(ii) for the words "the members of his family", the word "persons" shall be substituted;</p> <p>(iii) in the marginal note, the words "to spouse of members" shall be deleted.</p> <p>8. In section 6A, in sub-section (2),-</p> <p>(i) for the figures "4000", the figures "5000" shall be substituted;</p> <p>(ii) after the words "telephone charges", the brackets and words "(including expenses on mobile phone charges, if any,)" shall be inserted.</p>
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	<p>Medical attendance in private hospitals.</p>	<p>9. In section 8, -</p> <p>(a) in sub-section (5),-</p> <p>(i) the words "who are residing with and dependent on him" shall be deleted;</p> <p>(ii) in clause (a), the words "who are residing with and dependent on him" shall be deleted;</p> <p>(iii) in clause (b), the words "residing with and dependent on him" shall be deleted;</p> <p>(b) <i>Explanation</i> (2) shall be deleted.</p> <p>10. After section 8, the following new section shall be inserted, namely:-</p> <p><b>"8AA. (1)</b> In addition to the medical facilities provided under section 8, a member shall be entitled to be reimbursed by the State Government, subject to such conditions and to the extent of amount as may be prescribed by rules in that behalf, on account of medical attendance and treatment taken by him and by a member of his family, on production of a certificate of treatment taken and bills regarding the medical expenses including cost of medicines incurred by him in respect of such medical attendance and treatment in any private hospital situated in the State of Gujarat included in the Schedule appended to this Act.</p> <p>(2) The State Government may delete any hospital from the Schedule or include any hospital therein as it deems fit, by publishing a notification in the <i>Official Gazette</i>."</p> <p>11. After section 11, the following SCHEDULE shall be added, namely:-</p> <p style="text-align: center;"><b>"SCHEDULE</b> ( See section 8AA )</p> <p><b><u>Name of the Hospitals.</u></b></p> <ol style="list-style-type: none"> <li>1. Krishna Heart Institute, Ahmedabad.</li> <li>2. Rajasthan Hospital, Ahmedabad.</li> <li>3. Lalitaben Ratanlal Cardiac and Rehabilitation Center, Ahmedabad.</li> <li>4. P.I. Healthcare Center, Rajkot.</li> </ol>
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	5. Mohanlal Dayal Prasutigrh and General Hospital, Valsad.
	6. DDMM Institute of Cardiology and Cardiovascular Surgery, Nadiad.
	7. Saurashtra Stone Clinic and Research Institute Private Ltd, Rajkot.
	8. Muljibhai Patel Urological Hospital, Nadiad.
	9. Apollo Hospital, Ahmedabad.
	10. Sterling Hospital, Ahmedabad.
	11. SAL Hospital and Medical Institute, Ahmedabad.
	12. Mahavir Hospital, Surat.
	13. Bhailalbhai Amin General Hospital, Vadodara.
	14. Saibaba Hospital, Rajkot.
	15. Mahagujarat Hospital, Nadiad.
	16. Dr. Jivaraj Mehta Hospital, Ahmedabad."

2.	<p>The Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances Act, 1960 (Guj. III of 1960).</p> <p style="text-align: right;"><b>Salary and allowances of Speaker.</b></p>	<p>1. In section 2, after clause (a), the following clause shall be inserted, namely:-</p> <p>"(aa) "family" means a Speaker or, as the case may be, the Deputy Speaker's spouse, legitimate children and step-children, parents, sisters and minor brothers residing with and wholly dependent on the Speaker or, as the case may be, the Deputy Speaker.</p> <p><b>Explanation.-</b> A legitimate child, parents, sister or minor brother who resides with the Speaker or, as the case may be, the Deputy Speaker and whose income from all sources does not exceed Rs. 500/- per month or the amount as may be declared by the State Government in the <i>Official Gazette</i> for the purpose shall be deemed to be "wholly dependent" upon the Speaker or, as the case may be, the Deputy Speaker."</p> <p>2. The existing provisions of section 3 shall be deemed to have been substituted prospectively or retrospectively from such date as the State Government may notify in the <i>Official Gazette</i>, as under:-</p> <p>"3. There shall be paid to the Speaker during the whole of his term of office, a salary and allowances raised by twenty five per cent. of the</p>
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	<p>Medical attendance in private hospitals.</p>	<p>amount payable to the Member of the Legislative Assembly as provided in section 3 of the Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960.”.</p> <p>3. Section 3B shall be deemed to have been deleted from such date as the State Government may notify in the <i>Official Gazette</i>.</p> <p>4. In section 5, sub-section (2) shall be deemed to have been deleted from such date as the State Government may notify in the <i>Official Gazette</i>.</p> <p>5. In section 6AA,-</p> <p>(i) in the proviso and the <i>Explanation</i>, for the words “members of his family residing with and dependent on him”, wherever they occur, the word “persons” shall be substituted;</p> <p>(ii) after the existing proviso, the following proviso shall be inserted, namely :-</p> <p>“Provided further that the Speaker or, as the case may be, the Deputy Speaker may travel by air in lieu of travel by railway subject to the conditions that the difference between the fare for journey by air and the fare for journey by railway by first class or by second class air conditioned, whichever is higher, shall be borne by the Speaker or, as the case may be, the Deputy Speaker and subject to the other conditions specified in the above proviso.”.</p> <p>6. In section 6AB, for the words “co-traveler”, the word “one person” shall be substituted.</p> <p>7. In section 7, the <i>Explanation</i> shall be deleted.</p> <p>8. After section 7, the following new section shall be inserted, namely:-</p> <p>“7AA. (1) In addition to the medical facilities provided under section 7, the Speaker shall be entitled to be reimbursed by the State Government, subject to such conditions and to the extent of amount as may be prescribed by rules in that behalf, on account of medical attendance and treatment taken by him or by a member of his</p>
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		<p>family, on production of a certificate of treatment taken and bills regarding the medical expenses including cost of medicines incurred by him in respect of such medical attendance and treatment in any private hospital situated in the State of Gujarat included in the Schedule appended to this Act.</p> <p>(2) The State Government may delete any hospital from the Schedule or include any hospital therein as it deems fit, by publishing a notification in the <i>Official Gazette</i>."</p> <p>9. The existing provisions of section 10 shall be deemed to have been substituted prospectively or retrospectively from such date as the State Government may notify in the <i>Official Gazette</i>, as under :-</p> <p>"10. There shall be paid to the Deputy Speaker during the whole of his term of office, a salary and allowances raised by twenty five per cent. of the amount payable to the Member of the Legislative Assembly as provided in section 3 of the Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960."</p> <p>10. Section 10B shall be deemed to have been deleted from such date as the State Government may notify in the <i>Official Gazette</i>.</p> <p>11. In section 12C, sub-section (3) shall be deemed to have been deleted from such date as the State Government may notify in the <i>Official Gazette</i>.</p> <p>12. In section 12E, the <i>Explanation</i> shall be deleted.</p> <p>13. After section 12E, the following new section shall be added, namely :-</p> <p>"12EE. (1) In addition to the medical facilities provided under section 12E, the Deputy Speaker shall be reimbursed by the State Government, subject to such conditions and to the extent of amount as may be prescribed by rules in that behalf, on account of medical attendance and treatment taken by him or by a member of his</p>
	Salary and allowances of Deputy Speaker.	
	Medical attendance in private hospitals.	

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	<p>family, on production of a certificate of treatment taken and bills regarding the medical expenses including cost of medicines incurred by him in respect of such medical attendance and treatment in any private hospital situated in the State of Gujarat included in the Schedule appended to this Act.</p> <p>(2) The State Government may delete any hospital from the Schedule or include any hospital therein as it deems fit, by publishing a notification in the <i>Official Gazette</i>."</p> <p>14. After section 14, the following SCHEDULE shall be added, namely :-</p> <p style="text-align: center;"><b>"SCHEDULE</b> ( See sections 7AA and 12EE )</p> <p><b><u>Name of the Hospitals.</u></b></p> <ol style="list-style-type: none"> <li>1. Krishna Heart Institute, Ahmedabad.</li> <li>2. Rajasthan Hospital, Ahmedabad.</li> <li>3. Lalitaben Ratanlal Cardiac and Rehabilitation Center, Ahmedabad.</li> <li>4. P.I. Healthcare Center, Rajkot.</li> <li>5. Mohanlal Dayal Prasutigrub and General Hospital, Valsad.</li> <li>6. DDM Institute of Cardiology and Cardiovascular Surgery, Nadiad.</li> <li>7. Saurashtra Stone Clinic and Research Institute Private Ltd, Rajkot.</li> <li>8. Muljibhai Patel Urological Hospital, Nadiad.</li> <li>9. Apollo Hospital, Ahmedabad.</li> <li>10. Sterling Hospital, Ahmedabad.</li> <li>11. SAL Hospital and Medcial Institute, Ahmedabad.</li> <li>12. Mahavir Hospital, Surat.</li> <li>13. Bhailalbhai Amin General Hospital, Vadodara.</li> <li>14. Saibaba Hospital, Rajkot.</li> <li>15. Mahagujarat Hospital, Nadiad.</li> <li>16. Dr. Jivaraj Mehta Hospital, Ahmedabad."</li> </ol>
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<p>3.</p>	<p>The Gujarat Ministers' Salaries and Allowances Act, 1960 (Guj. VI of 1960).</p> <p>Salary and allowances to Ministers.</p>	<p>1. In section 2, clause (a) shall be renumbered as clause (aa) and before clause (aa) as so renumbered, the following clause shall be inserted, namely:-</p> <p>“(a) “family” means the Minister or the Deputy Minister’s spouse, legitimate children and step-children, parents, sisters and minor brothers residing with and wholly dependent on the Minister or the Deputy Minister.</p> <p><b>Explanation.-</b> A legitimate child, parents, sister or minor brother who resides with the Minister or the Deputy Minister and whose income from all sources does not exceed Rs. 500/- per month or the amount as may be declared by the State Government in the <i>Official Gazette</i> for the purpose shall be deemed to be “wholly dependent” upon the Minister or the Deputy Minister.”.</p> <p>2. The existing provisions of section 3 shall be deemed to have been substituted prospectively or retrospectively from such date as the State Government may notify in the <i>Official Gazette</i>, as under:-</p> <p>“3. There shall be paid to each Minister and the Minister of State during the whole of his term of office, a salary and allowances raised by twenty five per cent. of the amount payable to the Member of the Legislative Assembly as provided in section 3 of the Gujarat Legislative Assembly Members’ Salaries and Allowances Act, 1960.”.</p> <p>3. Section 3B shall be deemed to have been deleted from such date as the State Government may notify in the <i>Official Gazette</i>.</p> <p>4. In section 5, sub-section (2) shall be deemed to have been deleted from such date as the State Government may notify in the <i>Official Gazette</i>.</p> <p>5. The existing provisions of section 6 shall be deemed to have been substituted prospectively or retrospectively from such date as the State Government may notify in the <i>Official Gazette</i>, as under :-</p>
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	<p>Salary and allowances to Deputy Ministers.</p>	<p>"6. There shall be paid to the Deputy Minister during the whole of his term of office, a salary and allowances raised by twenty five per cent. of the amount payable to the Member of the Legislative Assembly as provided in section 3 of the Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960."</p> <p>6. Section 6B shall be deemed to have been deleted from such date as the State Government may notify in the <i>Official Gazette</i>.</p> <p>7. In section 8, sub-section (2) shall be deemed to have been deleted from such date as the State Government may notify in the <i>Official Gazette</i>.</p> <p>8. In section 9AA, -</p> <p>(i) in the proviso and the <i>Explanation</i>, for the words "members of his family residing with and dependent on him", wherever they occur, the word "persons" shall be substituted;</p> <p>(ii) after the existing proviso, the following proviso shall be inserted, namely :-</p> <p>"Provided further that a Minister or, as the case may be, the Deputy Minister may travel by air in lieu of travel by railway subject to the conditions that the difference between the fare for journey by air and the fare for journey by railway by first class or by second class air conditioned, whichever is higher, shall be borne by him and subject to the other conditions specified in the above proviso."</p> <p>9. In section 9A, the <i>Explanation</i> shall be deleted.</p> <p>10. In section 9AB, for the word "co-traveler", the words "one person" shall be substituted.</p> <p>11. In section 10,-</p> <p>(i) the words "who are residing with and dependent on him" shall be deleted;</p> <p>(ii) the <i>Explanation</i> shall be deleted.</p> <p>12. After section 10, the following new section shall be inserted, namely:-</p>
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	<p>Medical attendance in private hospitals.</p>	<p><b>"10A.</b> (1) In addition to the medical facilities provided under section 10, the Minister or the Deputy Minister, as the case may be, shall be reimbursed by the State Government, subject to such conditions and to the extent of amount as may be prescribed by rules in that behalf, on account of medical attendance and treatment taken by him or by a member of his family, on production of a certificate of treatment taken and bills regarding the medical expenses including cost of medicines incurred by him in respect of such medical attendance and treatment in any private hospital situated in the State of Gujarat included in the Schedule appended to this Act.</p> <p>(2) The State Government may delete any hospital from the Schedule or include any hospital therein as it deems fit, by issuing a notification in the <i>Official Gazette</i>."</p> <p><b>13.</b> After section 15, the following SCHEDULE shall be added, namely :-</p> <p style="text-align: center;"><b>"SCHEDULE</b> ( See section 10A )</p> <p><b><u>Name of the Hospitals.</u></b></p> <ol style="list-style-type: none"> <li>1. Krishna Heart Institute, Ahmedabad.</li> <li>2. Rajasthan Hospital, Ahmedabad.</li> <li>3. Lalitaben Ratanlal Cardiac and Rehabilitation Center, Ahmedabad.</li> <li>4. P.I. Healthcare Center, Rajkot.</li> <li>5. Mohanlal Dayal Prasutigrub and General Hospital, Valsad.</li> <li>6. DDMM Institute of Cardiology and Cardiovascular Surgery, Nadiad.</li> <li>7. Saurashtra Stone Clinic and Research Institute Private Ltd, Rajkot.</li> <li>8. Muljibhai Patel Urological Hospital, Nadiad.</li> <li>9. Apollo Hospital, Ahmedabad.</li> <li>10. Sterling Hospital, Ahmedabad.</li> <li>11. SAL Hospital and Medcial Institute, Ahmedabad.</li> <li>12. Mahavir Hospital, Surat.</li> </ol>
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		13. Bhailalbhai Amin General Hospital, Vadodara.
		14. Saibaba Hospital, Rajkot.
		15. Mahagujarat Hospital, Nadiad.
		16. Dr. Jivaraj Mehta Hospital, Ahmedabad.”.

4.	<p>The Gujarat Legislative Assembly (Leader of the Opposition) Salary and Allowances Act, 1979 (Guj. 16 of 1979).</p> <p>Salary and allowances of Leader of Opposition.</p>	<p>1. In section 2, after clause (a), the following clause shall be inserted, namely:-</p> <p>“(aa) “family” means the Leader of the Opposition’s spouse, legitimate children and step-children, parents, sisters and minor brothers residing with and wholly dependent on the Leader of the Opposition.</p> <p><b>Explanation.</b>- A legitimate child, parents, sister or minor brother who resides with the Leader of the Opposition and whose income from all sources does not exceed Rs. 500/- per month or the amount as may be declared by the State Government in the <i>Official Gazette</i> for the purpose shall be deemed to be “wholly dependent” upon the Leader of the Opposition.”.</p> <p>2. The existing provisions of section 3 shall be deemed to have been substituted prospectively or retrospectively from such date as the State Government may notify in the <i>Official Gazette</i>, as under :-</p> <p>“3. There shall be paid to the Leader of the Opposition during the whole of his term of office, a salary and allowances raised by twenty five per cent. of the amount payable to the Member of the Legislative Assembly as provided in section 3 of the Gujarat Legislative Assembly Members’ Salaries and Allowances Act, 1960.”.</p> <p>3. Section 3B shall be deemed to have been deleted from such date as the State Government may notify in the <i>Official Gazette</i>.</p> <p>4. In section 5, sub-section (2) shall be deemed to have been deleted from such date as the State Government may notify in the <i>Official Gazette</i>.</p> <p>5. In section 7, the <i>Explanation</i> shall be deleted.</p>
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	<p>Medical attendance in private hospitals.</p>	<p>6. After section 7, the following new section shall be inserted, namely:-</p> <p>“7A. (1) In addition to the medical facilities provided under section 7, the Leader of the Opposition shall be reimbursed by the State Government, subject to such conditions and to the extent of amount as may be prescribed by rules in that behalf, on account of medical attendance and treatment taken by him or by a member of his family, on production of a certificate of treatment taken and bills regarding the medical expenses including cost of medicines incurred by him in respect of such medical attendance and treatment in any private hospital situated in the State of Gujarat included in the Schedule appended to this Act.</p> <p>(2) The State Government may delete any hospital from the Schedule or include any hospital therein as it deems fit, by issuing a notification in the <i>Official Gazette</i>.”.</p> <p>7. In section 8A, -</p> <p>(i) in the proviso and the <i>Explanation</i>, for the words “members of his family residing with and dependent on him”, wherever they occur, the word “persons” shall be substituted;</p> <p>(ii) after the existing proviso, the following proviso shall be inserted, namely :-</p> <p>“Provided further that the Leader of the Opposition may travel by air in lieu of travel by railway subject to the conditions that the difference between the fare for journey by air and the fare for journey by railway by first class or by second class air conditioned, whichever is higher, shall be borne by the Leader of the Opposition and subject to the other conditions specified in the above proviso.”.</p> <p>8. In section 8B, for the word “co-traveler”, the words “one person” shall be substituted.</p> <p>9. After section 13, the following SCHEDULE shall be added, namely :-</p>
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		<p style="text-align: center;"><b>“SCHEDULE</b> ( See section 7A )</p> <p><b><u>Name of the Hospitals.</u></b></p> <ol style="list-style-type: none"> <li>1. Krishna Heart Institute, Ahmedabad.</li> <li>2. Rajasthan Hospital, Ahmedabad.</li> <li>3. Lalitaben Ratanlal Cardiac and Rehabilitation Center, Ahmedabad.</li> <li>4. P.I. Healthcare Center, Rajkot.</li> <li>5. Mohanlal Dayal Prasutigruh and General Hospital, Valsad.</li> <li>6. DDM Institute of Cardiology and Cardiovascular Surgery, Nadiad.</li> <li>7. Saurashtra Stone Clinic and Research Institute Private Ltd, Rajkot.</li> <li>8. Muljibhai Patel Urological Hospital, Nadiad.</li> <li>9. Apollo Hospital, Ahmedabad.</li> <li>10. Sterling Hospital, Ahmedabad.</li> <li>11. SAL Hospital and Medcial Institute, Ahmedabad.</li> <li>12. Mahavir Hospital, Surat.</li> <li>13. Bhailalbhai Amin General Hospital, Vadodara.</li> <li>14. Saibaba Hospital, Rajkot.</li> <li>15. Mahagujarat Hospital, Nadiad.</li> <li>16. Dr. Jivaraj Mehta Hospital, Ahmedabad.”.</li> </ol>
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### STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of the laws relating to salaries and allowances of the Members, the Speaker and the Deputy Speaker of the Gujarat Legislative Assembly, the Ministers and Leader of the Opposition, Members, the Speaker and the Deputy Speaker of the Gujarat Legislative Assembly, Ministers and Leader of the Opposition are entitled to medical facilities in the Government hospitals and hospitals run by local authorities. It is considered necessary to extend the scope of medical facilities in the renowned private hospitals in the State commensurate to the facilities available to Government employees to these dignitaries. It has also been considered necessary to expand the scope of the hospitals wherein the aforesaid dignitaries can avail medical treatment for him and family members. An opportunity is taken to include the definition of family in the relevant laws.

It is also considered necessary to increase the amount of telephone charges from Rs 4000/- to Rs 5000/- per month in order to facilitate them to meet with the expenses towards the mobile phone charges.

The Members are entitled travel facility by rail and road alongwith his spouse and two members of the family. It is considered necessary to amend the provisions of the relevant laws to the extent to allow the Member to take with him two persons. Likewise, it is proposed to amend the relevant laws to facilitate the other dignitaries to avail travel facility on the same way. In order to make the journey more convenient, provision has also been made to allow air journey to the member and his family including other persons subject to the reimbursement of admissible railway fare.

An opportunity is also taken to amend the relevant laws so as to streamline the existing provisions relating to salaries and allowances payable under the relevant laws.

This Bill seeks to amend the laws relating to salaries and allowances of the Members, the Speaker and the Deputy Speaker of the Gujarat Legislative Assembly and also the Ministers and Leader of the Opposition to achieve the aforesaid objects.

**AMIT SHAH,**

### FINANCIAL MEMORANDUM

The provisions of the Bill if enacted and brought into operation would involve an additional annual expenditure of approximately Rs. 18,96,000/- on account of revision of amount payable for telephone facility from the Consolidated Fund of the State. The aforesaid additional annual expenditure would be of a recurring nature. On allowing the Chairman and members of the Committees of the House to travel by air in any part of India for official work there shall be an additional expenditure to the extent of difference between the air fare and existing travelling allowance. On



revision of salary and allowances under the relevant laws which shall be effective on the date to be notified by the State Government, incur additional expenditure. The facility for medical treatment in other private hospitals would also incur additional expenditure due to reimbursement expenses for the treatment taken in such hospitals. At present, it is not possible to specify exact figure of expenses to be involved for aforesaid increase in salary and facilities.

AMIT SHAH,

### MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects :-

*Clause 1.-* Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the provisions of the Act shall come into force and also empowers the State Government to appoint different dates for different provisions of the Act.

*Clause 2.-* In the Schedule appended to the Bill,-

1. In entry at Serial No. 1 relating the Gujarat Legislative Assembly Members' Salaries and Allowances Act, 1960,-

(i) *Sub-entry 1.-* The Explanation under clause (bb) proposed to be inserted in section 2 empowers the State Government to declare by notification in the *Official Gazette*, such amount for the purpose of considering a child, parents, sister or minor brother deemed to be wholly dependent on the member;

(ii) *Sub-entry 2* empowers the State Government to notify in the *Official Gazette*, the prospective or retrospective date on which section 3 proposed to be substituted by this entry shall come into force;

(iii) *Sub-entry 4(ii).-* The second proviso proposed to be inserted after the existing proviso in section 5B empowers the State Government to prescribe by rules, the other conditions in addition to the conditions prescribed under first proviso, subject to which a member may travel by air journey in lieu of travel by railway;

(iv) *Sub-entry 10.-* (a) Sub-section (1) of section 8AA proposed to be inserted by this sub-entry empowers the State Government to prescribe by rules, such conditions and the extent of amount subject to which a member shall be entitled to be reimbursed on account of medical attendance and treatment taken by him and his family members in the private hospitals situated in the State of Gujarat;

(b) sub-section (2) of the said section 8AA empowers the State Government to amend the Schedule, by notification in the *Official Gazette*, to delete or include entry relating to any hospital in the Schedule.

2. In entry at Serial No. 2 relating to the Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances Act, 1960,-

(i) **Sub-entry 1.-** The explanation under clause (aa) proposed to be inserted in section 2 empowers the State Government to declare by notification in the *Official Gazette*, such amount for the purpose of considering a child, parents, sister or minor brother deemed to be wholly dependent on the Speaker or the Deputy Speaker;

(ii) **Sub-entry 2** empowers the State Government to notify in the *Official Gazette*, the prospective or retrospective date on which section 3 proposed to be substituted by this entry shall come into force;

(iii) **Sub-entry 3** empowers the State Government to notify in the *Official Gazette*, the date on which section 3B shall be deleted;

(iv) **Sub-entry 4** empowers the State Government to notify in the *Official Gazette*, the date on which sub-section (2) of section 5 shall be deleted;

(v) **Sub-entry 5.-** The second proviso proposed to be inserted after the existing proviso in section 6AA empowers the State Government to prescribe by rules, the other conditions in addition to the conditions prescribed under first proviso, subject to which the Speaker or the Deputy Speaker may travel by air in lieu of travel by railway;

(vi) **Sub-entry 8.-** (a) Sub-section (1) of section 7AA proposed to be inserted by this sub-entry empowers the State Government to prescribe by rules, such conditions and the extent of amount subject to which Speaker shall be entitled to reimbursed on account of medical attendance and treatment taken by him and his family members in the private hospitals situated in the State of Gujarat;

(b) sub-section (2) of the said section 7AA empowers the State Government to amend the Schedule, by notification in the *Official Gazette*, to delete or include entry relating to any hospital in the Schedule;

(vii) **Sub-entry 9** empowers the State Government to notify in the *Official Gazette*, the prospective or retrospective date on which section 10 proposed to be substituted by this entry shall come into force;

(viii) **Sub-entry 10** empowers the State Government to notify in the *Official Gazette*, the date on which section 10B shall be deleted;

(ix) **Sub-entry 11** empowers the State Government to notify in the *Official Gazette*, the date on which sub-section (3) of section 12C shall be deleted;

(ix) **Sub-entry 13.-** (a) Sub-section (1) of section 12EE proposed to be inserted by this sub-entry empowers the State Government to prescribe by rules, such conditions and the extent of amount subject to which the Deputy Speaker shall be entitled to be reimbursed on account of medical attendance and treatment taken by him and his family members in the private hospitals situated in the State of Gujarat;

(b) sub-section (2) of the said section 12EE empowers the State Government to amend the Schedule, by notification in the *Official Gazette*, to delete or include entry relating to any hospital in the Schedule.

3. In entry at Serial No. 3 relating to the Gujarat Ministers' Salaries and Allowances Act, 1960, -

- (i) **Sub-entry 1.-** The explanation under clause (a) proposed to be inserted in section 2 empowers the State Government to declare by notification in the *Official Gazette*, such amount for the purpose of considering a child, parents, sister or minor brother deemed to be wholly dependent on the Minister or the Deputy Minister;
  - (ii) **Sub-entry 2** empowers the State Government to notify in the *Official Gazette*, the prospective or retrospective date on which section 3 proposed to be substituted by this entry shall come into force;
  - (iii) **Sub-entry 3** empowers the State Government to notify in the *Official Gazette*, the date on which section 3B shall be deleted;
  - (iv) **Sub-entry 4** empowers the State Government to notify in the *Official Gazette*, the date on which sub-section (2) of section 5 shall be deleted;
  - (v) **Sub-entry 5** empowers the State Government to notify in the *Official Gazette*, the prospective or retrospective date on which section 6 proposed to be substituted by this entry shall come into force;
  - (vi) **Sub-entry 6** empowers the State Government to notify in the *Official Gazette*, the date on which section 6B shall be deleted;
  - (vii) **Sub-entry 7** empowers the State Government to notify in the *Official Gazette*, the date on which sub-section (2) of section 8 shall be deleted;
  - (viii) **Sub-entry 8.-** The second proviso proposed to be inserted after the existing proviso in section 9AA empowers the State Government to prescribe by rules, the other conditions in addition to the conditions prescribed under first proviso, subject to which the Minister or the Deputy Minister may travel by air in lieu of travel by railway;
  - (ix) **Sub-entry 12.-** (a) Sub-section (1) of section 10A proposed to be inserted by this sub-entry empowers the State Government to prescribe by rules, such conditions and the extent of amount subject to which the Minister or the Deputy Minister shall be entitled to be reimbursed on account of medical attendance and treatment taken by him and his family members in the private hospitals situated in the State of Gujarat;  
 (b) sub-section (2) of the said section 10A empowers the State Government to amend the Schedule, by notification in the *Official Gazette*, to delete or include entry relating to any hospital in the Schedule.
4. In entry at Serial No. 4 relating to the Gujarat Legislative Assembly (Leader of the Opposition) Salary and Allowances Act, 1979, -
- (i) **Sub-entry 1.-** The explanation under clause (aa) proposed to be inserted in section 2 empowers the State Government to declare by notification in the *Official Gazette*, such amount for the purpose of considering a child, parents, sister or minor brother deemed to be wholly dependent on the Leader of the Opposition;
  - (ii) **Sub-entry 2** empowers the State Government to notify in the *Official Gazette*, the prospective or retrospective date on which section 3 proposed to be substituted by this entry shall come into force;
  - (iii) **Sub-entry 3** empowers the State Government to notify in the *Official Gazette*, the date on which section 3B shall be deleted;

(iv) **Sub-entry 4** empowers the State Government to notify in the *Official Gazette*, the date on which sub-section (2) of section 5 shall be deleted;

(v) **Sub-entry 6.-** (a) Sub-section (1) of section 7A proposed to be inserted by this sub-entry empowers the State Government to prescribe by rules, such conditions and the extent of amount subject to which the Leader of the Opposition shall be entitled to be reimbursed on account of medical attendance and treatment taken by him and his family members in the private hospitals situated in the State of Gujarat;

(b) sub-section (2) of the said section 7A empowers the State Government to amend the Schedule, by notification in the *Official Gazette*, to delete or include entry relating to any hospital in the Schedule;

(vi) **Sub-entry 7.-** The second proviso proposed to be inserted after the existing proviso in section 8A empowers the State Government to prescribe by rules, the other conditions in addition to the conditions prescribed under first proviso, subject to which the Leader of the Opposition may travel by air in lieu of travel by railway.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,  
Dated the 28<sup>th</sup> September, 2008.

AMIT SHAH.

By order and in the name of the Governor of Gujarat,

Gandhinagar,  
Dated the 28<sup>th</sup> September, 2008.

H. D. VYAS,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.